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

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

I hereby appoint the Honorable Ed Whitfield to act as Speaker pro tempore on this day.

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

PLEDGE OF ALLEGIANCE
The SPEAKER pro tempore. The Chair will lead the House in the Pledge of Allegiance.

The Speaker pro tempore led the Pledge of Allegiance as follows:
I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE
A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate has passed a concurrent resolution of the following title in which the concurrence of the House is requested:
S. Con. Res. 25. Concurrent Resolution honoring the service of the 1,200 soldiers of the 48th Infantry Brigade of the Georgia Army National Guard as they deploy to Bosnia for nine months, recognizing their sacrifice while away from their jobs and families during that deployment, and recognizing the important role of all National Guard and Reserve personnel at home and abroad to the national security of the United States; to the Committee on Armed Services.

ADJOURNMENT
The SPEAKER pro tempore. Without objection, the House stands adjourned until 12:30 p.m. tomorrow for morning hour debates.

There was no objection. Accordingly (at 2 o’clock and 2 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, March 20, 2001, at 12:30 p.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.
Under clause 8 of rule XII, executive communications were taken from the Speaker’s table and referred as follows:

This symbol represents the time of day during the House proceedings, e.g., 2:07 p.m. indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.
1242. A letter from the director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of March 1, 2001, pursuant to 2 U.S.C. 685(e); (H. Doc. No. 107–52); to the Committee on Appropriations and ordered to be printed.

1243. A letter from the secretary, Department of Defense, transmitting the findings of the six-year study on retroactive benefits; to the Committee on Armed Services.

1244. A letter from the acting secretary, Department of Energy, transmitting a report of the board of directors on the national nuclear weapons complex; to the Committee on Armed Services.

1245. A letter from the principal deputy director, Department of Energy, transmitting a letter regarding the department’s goal of building a stronger future acquisition workforce; to the Committee on Armed Services.

1246. A letter from the director, regulations policy and management staff, FDA, Department of Health and Human Services, transmitting the final rule—Revision of administrative practices and procedures; meetings and correspondence; public calendars; partial stay, amendments, and correction; [docket no. 98–1042] received March 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1247. A letter from the director, regulations policy and management staff, FDA, Department of Health and Human Services, transmitting the department’s final rule—Approval and promulgation of air quality implementation plans; Massachusetts; amendment to the Massachusetts port authority; Logan airport parking freeze and city of Boston east Boston parking freeze [MA–01–0062–7212a; A–1–FRL–6891–3] received March 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1248. A letter from the deputy associate administrator, environmental protection agency, transmitting the agency’s final rule—Approval and promulgation of air quality implementation plans; state of Utah; Ogden City carbon monoxide redesignation to attainment, designation of areas for air quality planning purposes, and approval of revisions to the oxygenated gasoline program [UT–01–0022a, UT–01–0024a, UT–01–0025a, UT–01–0026a, UT–01–0027a, UT–01–0030a, UT–01–0031a; FRL–6988–9] received March 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1249. A letter from the deputy associate administrator, environmental protection agency, transmitting the agency’s final rule—Approval and promulgation of air quality implementation plans; state of Utah; Ogden City carbon monoxide redesignation to attainment, designation of areas for air quality planning purposes, and approval of revisions to the oxygenated gasoline program [UT–01–0022a, UT–01–0024a, UT–01–0025a, UT–01–0026a, UT–01–0027a, UT–01–0030a, UT–01–0031a; FRL–6988–9] received March 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1250. A letter from the deputy director, office of congressional affairs, CMS, Department of Health and Human Services, transmitting the list of approvals for use in fuel storage tanks: HI-STAR 100 revision (RIN: 3150–AG67) received March 13, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1251. A letter from the director, Office of Congressional Affairs, CMS, Department of Health and Human Services, transmitting the list of approvals for use in fuel storage tanks: HI-STAR 100 revision (RIN: 3150–AG67) received March 13, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1252. A letter from the acting assistant secretary for legislative affairs, Department of Labor, transmitting the 2001 international narcotics control strategy, pursuant to 22 U.S.C. 2291(b)(2); to the Committee on International Relations.

1253. A letter from the chief financial officer, department of defense, transmitting reports on FY 2000 financial statements; to the Committee on Government Reform.

1254. A letter from the general counsel, federal retirement thrift investment program, transmitting a report of the board of directors concerning correction of administrative errors—received March 13, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

1255. A letter from the acting director, office of sustainable fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the administration’s final rule—Fisheries of the Exclusive Economic Zone Off Alaska: Pacific cod by vessels catching Pacific cod for processing by the Inshore Community Development Area Regulatory Area of the Gulf of Alaska [docket no. 01012103–1013–01; I.D. 030201A] received March 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1256. A letter from the acting assistant administrator for fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the administration’s final rule—Fisheries of the northeastern United States; Scup and black sea bass fisheries; 2001 specifications; commercial quota harvested for winter I scup period; commercial quota harvested for black sea bass quarter 1 period [docket no. 00121338–1011–02; I.D. 111500C] received March 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1257. A letter from the acting assistant administrator for fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the administration’s final rule—Fisheries of the Exclusive Economic Zone Off Alaska; western Alaska community development quota program [docket no. 00062919–1038–02; I.D. 051500D] received March 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1258. A letter from the acting director, office of sustainable fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the administration’s final rule—Fisheries of the Exclusive Economic Zone Off Alaska; atka mackerel in the western aleutian district and bering sea sub-area of the bering sea and aleutian islands [docket no. 01012103–1013–01; I.D. 030601B] received March 13, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1259. A letter from the acting director, office of sustainable fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the administration’s final rule—Fisheries of the Exclusive Economic zone off Alaska; atka mackerel in the western aleutian district and bering sea sub-area of the bering sea and aleutian islands [docket no. 01012103–1013–01; I.D. 030601B] received March 13, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1260. A letter from the program analyst, FAA, Department of transportation, transmitting the department’s final rule—Approval and promulgation of air quality implementation plans; Massachusetts; amendment to the Massachusetts port authority; Logan airport parking freeze and city of Boston east Boston parking freeze [MA–01–0062–7212a; A–1–FRL–6891–3] received March 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1261. A letter from the program analyst, FAA, Department of transportation, transmitting the department’s final rule—Approval and promulgation of air quality implementation plans; Massachusetts; amendment to the Massachusetts port authority; Logan airport parking freeze and city of Boston east Boston parking freeze [MA–01–0062–7212a; A–1–FRL–6891–3] received March 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1262. A letter from the program analyst, FAA, Department of transportation, transmitting the department’s final rule—Approval and promulgation of air quality implementation plans; Massachusetts; amendment to the Massachusetts port authority; Logan airport parking freeze and city of Boston east Boston parking freeze [MA–01–0062–7212a; A–1–FRL–6891–3] received March 6, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1263. A letter from the chairman, board of trustees, federal old-age and survivors insurance and disability insurance trust funds, transmitting the 2001 annual report of the board of trustees of the federal old-age and survivors insurance trust fund and the federal disability insurance trust fund, pursuant to 42 U.S.C. 1395t(b)(2); (H. Doc. No. 107–1395t(b)(2)); to the Committee on Ways and Means.

1264. A letter from the chairman, board of trustees, federal old-age and survivors insurance and disability insurance trust funds, transmitting the 2001 annual report of the board of trustees of the federal old-age and survivors insurance trust fund and the federal disability insurance trust fund, pursuant to 42 U.S.C. 1395t(b)(2), 1395b(2), and 1395t(b)(2); (H. Doc. No. 107–57); to the Committee on Ways and Means.

1265. A letter from the chairman, board of trustees, federal old-age and survivors insurance and disability insurance trust funds, transmitting the 2001 annual report of the board of trustees of the federal old-age and survivors insurance trust fund and the federal disability insurance trust fund, pursuant to 42 U.S.C. 1395t(b)(2), 1395b(2), and 1395t(b)(2); (H. Doc. No. 107–57); to the Committee on Ways and Means.

1266. A letter from the chairman, board of trustees, federal old-age and survivors insurance and disability insurance trust funds, transmitting the 2001 annual report of the board of trustees of the federal old-age and survivors insurance trust fund and the federal disability insurance trust fund, pursuant to 42 U.S.C. 1395t(b)(2), 1395b(2), and 1395t(b)(2); (H. Doc. No. 107–57); to the Committee on Ways and Means.
H.R. 1089. A bill to amend title XVIII of the Social Security Act to expand Medicare coverage of certain self-injected biologicals; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, 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. TOM DAVIS of Virginia (for himself, Mr. MORGAN of Virginia, Mr. GALLEY of New York, Mr. WITTMAN of Virginia, Mr. ROYCE of California, Mr. GREEN of Wisconsin, Mr. ROYCE of Florida, Ms. ROS-LEHTINEN of Florida, Mr. SHAYS of Connecticut, Mr. McCArTHY of New York, Mr. SMITH of New Jersey, Mr. FLAKE of Ohio, Mr. ROOKE of Colorado, Mr. HOLLEY of Oregon, Mr. BACH, and Mr. MILLER of Missouri):

H.R. 1990. A bill to amend subchapter III of chapter 83 and chapter 84 of title 5, United States Code, to include assistant United States attorneys within the definition of a law enforcement officer, and for other purposes; to the Committee on Government Reform.

By Mrs. MINK of Hawaii:

H.R. 1091. A bill to amend title II of the Social Security Act to provide that a monthly insurance benefit thereunder shall be paid to the estate of any individual who is blind as a result of accidental injury and who would not otherwise be eligible to receive such a benefit; to the Committee on Ways and Means.

By Mr. SIMMONS (for himself, Mr. CRAMER of Minnesota, Mr. ROYCE of Florida, Ms. ROS-LEHTINEN of Florida, Mr. SHAYS of Connecticut, Mr. McCArTHY of New York, Mr. SMITH of New Jersey, Mr. FLAKE of Ohio, Mr. ROOKE of Colorado, Mr. HOLLEY of Oregon, Mr. BACH, and Mr. MILLER of Missouri):

H.R. 1092. A bill to ensure that amounts in the Victims of Crime Fund are fully obligated; to the Committee on the Judiciary.

By Mr. THUNE (for himself, Mrs. EMERSON of Iowa, and Mr. RHEEMER of South Dakota):

H.R. 1093. A bill to provide for grants to assist value-added agricultural businesses; to the Committee on Agriculture.

By Mr. THUNE (for himself, Mrs. EMERSON of Iowa, and Mr. RHEEMER of South Dakota):

H.R. 1094. A bill to amend the Internal Revenue Code of 1986 to allow a credit against tax to individuals and employers who maintain underwriting or administrative services for a limited number of policyholders of health insurance contracts issued to eligible small employers; to the Committee on Ways and Means.

By Mr. UDALL of New Mexico:

H.R. 1095. A bill to clarify the tax treatment of payments made under the Cerro Grande Fire Assistance Act; to the Committee on Ways and Means.

By Mr. JENKINS of Georgia (for himself, Mr. LANTOS of California, Ms. ROS-LEHTINEN of Florida, Mr. DELAY of Maryland, Mr. DIAZ-BALART of Florida, Mr. MENENDEZ of Florida, Mr. ARMY of Georgia, Mr. BALLENGER of Georgia, Mr. DEUTSCH of Florida, Mr. CRISS, Mr. ROHRABACHER of California, Mr. GILMARTIN of New York, Mr. ENGEL of New York, Mr. WELDON of Pennsylvania, Mr. LEACH of California, and Mr. ROYCE of Pennsylvania):

H. Res. 91. A resolution expressing the sense of the House of Representatives regarding the human rights situation in Cuba; to the Committee on International Relations.

ADDITIONAL SPONSORS

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

H.R. 17: Ms. SOLIS.

H.R. 31: Mr. BURTON of Indiana and Mr. BAHR of Georgia.

H.R. 39: Mr. CHAMBLISS of Georgia, Mr. KERN of California, and Mr. BRYANT.

H.R. 51: Mr. RANGEL.

H.R. 244: Mr. KING.

H.R. 247: Mr. BRAGG.

H.R. 250: Mr. LANGFORD, Mr. SMITH of New Jersey, Mr. McDERMOTT of Washington, Mr. HYDE, Mr. WELDON of Pennsylvania, Mr. LEACH, and Mr. ROYCE.

H.R. 267: Mr. PETRI of North Carolina, Mr. BRICKER of Ohio, Mr. BACCHUS of Alabama, Mr. REYES of Florida, Mr. BALDACCI of Pennsylvania, Mr. BAKER of Tennessee, Mr. WYNN of Florida, Mr. CROWLEY of New York, Mr. LIPINSKI of Indiana, Mr. LOBIONDO of New York, and Mr. RANGEL.

H.R. 288: Mrs. LEES of New York, Mr. NORTON of Kentucky, and Mr. DAVIS of Illinois.

H.R. 329: Ms. SOLIS.

H.R. 341: Mr. ACKERMAN of New York, Ms. PALLONE of New Jersey, Ms. COYNE of Illinois, and Mr. MORGAN of Virginia.

H.R. 353: Mr. CAMP of South Carolina, Mr. STRANH of Minnesota, Mr. GREEN of Wisconsin, Mr. RYAN of Wisconsin, Mr. LARGENT of Louisiana, and Mr. ARMSTRONG.

H.R. 369: Mr. CRAMER of Minnesota.

H.R. 394: Mr. HOSTETTLER, Mr. CLEMENT of Missouri, Mr. TOUER of Wisconsin, Mr. BACA of Colorado, Mr. CHAMBLISS of Georgia, Mr. GUTKNECHT of New Jersey, Mr. FILNER of California, Mrs. GRAHAM of Texas, Mrs. MCCARTHY of New York, Mrs. KELL of Ohio, Ms. JO ANN DAVIS of Virginia, Mr. LUCAS of Oklahoma, Mr. CAROL of North Carolina, and Mr. SCHIFF.

H.R. 429: Mr. GUTERREZ.

H.R. 510: Mr. BURTON of Indiana, Mr. POLZY of Illinois, and Mr. HYDE.

H.R. 589: Mr. BLANKENJIE.

H.R. 612: Mr. DINGELL of Michigan, Mr. KINGSTON of New Jersey, Mr. HYDE of New York, Mr. TERRY of Massachusetts, Mr. MOLLHAN of Colorado, Mr. RASMUSSEN of Washington, Mr. McCULLOM of Oregon, Mrs. CHRISTENSEN of Utah, and Mr. DEAL of Georgia.

H.R. 622: Mr. WELDON of Pennsylvania.

H.R. 684: Mr. GORDON of Georgia, Mr. DUNCAN, Mr. HAYWORTH, and Mr. CHABOT.

H.R. 689: Mr. GUTERREZ.

H.R. 677: Mr. CRAMER of Minnesota, Mr. LANDY of California, Mr. CHAMBLISS and Mr. SIMMONS of Texas, Mr. DEGETTE of Colorado, Mrs. CAPPS, Mr. GUTERREZ of Texas, Mr. FILNER of California, Mr. SANDERS of Minnesota, Mr. CRON of New York, Mr. HUCHO of Texas, and Mr. RODRIGUEZ.

H.R. 783: Mr. THUER of New York.

H.R. 801: Ms. BROWN of Florida.

H.R. 811: Mr. POLZY.

H.R. 818: Mr. LIPIŃSKI of Wisconsin, Mr. BOHELKERT of Ohio, Mr. NEAL of Massachusetts, Mr. MCNULTY of New York, and Mr. PAYNE.

H.R. 856: Mr. BONOR of Tennessee, Mr. SESSIONS of Texas, Mr. WYN of California, Mr. KILPATRICK of Mississippi, and Mr. PLATTS.

H.R. 862: Mr. MCDERMOTT.

H.R. 882: Mr. ENGLISH and Mr. BARR of Georgia.

H.R. 925: Mr. MEENAH.

H.R. 939: Mr. KOCH of Illinois and Mr. MEENAH.

H.R. 951: Mr. JOHNSON of California, Mrs. CAPPS, Mr. ALLEN, and Mr. HALL.

H.R. 962: Mrs. MEEK of Florida and Ms. LEE.

H.R. 971: Mr. OTTER.

H.R. 981: Mr. CALLAHAN, Mr. PORTMAN, and Mr. CLEMENT.

H.R. 1009: Mr. BEREKUT of Pennsylvania, Mr. BAKER, Mr. BAKER, Mr. WYNN of Florida, Mr. CROWLEY of New York, Mr. LIPINSKI of Indiana, Mr. LOBIONDO of New York, and Mr. RANGEL.

H.R. 1015: Mr. GIBSON of North Carolina and Mr. WATTS of Oklahoma.

H.R. 1032: Mr. KLECKA.

H. Con. Res. 29: Mr. MENENDEZ and Mr. GILMARTIN.

H. Con. Res. 45: Mr. WELDON of Pennsylvania, Mr. CALVET of California, Mr. HOLDEN of Texas, Mrs. CAPPS, Mr. LANGFORD, Mr. MILLORD of Minnesota, Mrs. THURMAN of Virginia, and Mr. CAMP.

H. Res. 13: Ms. MCCARTHY of Missouri.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H. R. 247

OFFERED BY MR. BACHUS

Amendment in the Nature of a Substitute

AMENDMENT NO. 1. Strike all after the enacting clause and insert the following:
SECTION 1. SHORT TITLE.
This Act may be cited as the "Tornado Shelters Act".

SEC. 2. CDBG ELIGIBLE ACTIVITIES.
Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(1) in paragraph (22), by striking "and" at the end;
(2) in paragraph (23), by striking the period at the end and inserting a semicolon; and
(3) by inserting after paragraph (23) the following new paragraph:
"(24) the construction or improvement of tornado- or storm-safe shelters for manufactured housing parks and residents of other manufactured housing, the acquisition of real property for sites for such shelters, and the provision of assistance (including loans and grants) to nonprofit or for-profit entities (including owners of such parks) for such construction, improvement, or acquisition; and".
The Senate met at 12 noon and was called to order by the Honorable PAT ROBERTS, a Senator from the State of Kansas.

PRAYER

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

Gracious Lord, on Saturday we joyfully celebrated Saint Patrick’s Day. We remember the words with which St. Patrick began his days. We pray them today as our prayer: “I arise today, through God’s might to uphold me, God’s wisdom to guide me, God’s eye to look before me, God’s ear to hear me, God’s hand to guard me, God’s way to lie before me and God’s shield to protect me.” In Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable PAT ROBERTS 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.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. THURMOND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PAT ROBERTS, a Senator from the State of Kansas, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. ROBERTS thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 1 p.m., with Senators permitted to speak therein for up to 10 minutes each.

ORDER OF PROCEDURE

Mr. SPECTER. Mr. President, before being allotted my 10 minutes, I have been asked by the distinguished majority leader to make the following announcement.

Today, the Senate will be in a period of morning business until 1 p.m. Following morning business, the Senate will begin debate on S. 27, the campaign finance reform bill. Under the agreement, each amendment offered will have up to 3 hours of debate prior to a vote on or in relation to the amendment. Amendments are expected to be offered during today’s session. However, any votes ordered will be stacked to occur later today. Senators will be notified as a vote time is scheduled. Members are encouraged to offer their amendments as soon as possible in order to complete the bill in a timely manner.

SCHEDULE

Mr. SPECTER. Mr. President, before being allotted my 10 minutes, I have been asked by the distinguished majority leader to make the following announcement.

Today, the Senate will be in a period of morning business until 1 p.m. Following morning business, the Senate will begin debate on S. 27, the campaign finance reform bill. Under the agreement, each amendment offered will have up to 3 hours of debate prior to a vote on or in relation to the amendment. Amendments are expected to be offered during today’s session. However, any votes ordered will be stacked to occur later today. Senators will be notified as a vote time is scheduled. Members are encouraged to offer their amendments as soon as possible in order to complete the bill in a timely manner.

I thank my colleagues for their attention.

CAMPAIGN FINANCE REFORM

Mr. SPECTER. Mr. President, I have sought recognition in morning business to reference legislation on campaign finance reform which I originally offered on September 18, 1997, as S. 1191. I refer to it today because there are a number of specific provisions which may form the basis for amendments to S. 27. I wanted to give my colleagues express notice that I might be offering such.

My bill does six things: First, it eliminates soft money; second, defines express advocacy; third, requires affidavits for independent expenditures; fourth, adopts the Maine standby public financing provision; fifth, eliminates foreign transactions which funnel money into U.S. campaigns; sixth, limits and requires reporting of contributions to legal defense funds.

A major portion of debate will occur on the issue of soft money. The Supreme Court of the United States in Buckley v. Valeo defined advocacy and issue ads in a way which has been very perplexing and very troubling, and in Buckley v. Valeo the Supreme Court said:

In order to preserve the provision against invalidation on vagueness grounds, section 608(e)(1) must be construed to apply only to expenditures for communications that in express terms advocate the election or defeat of a clearly identified candidate for Federal office.

And then the Supreme Court went on to amplify what express advocacy meant, saying vote for X or vote against X.

There have been decisions which have said that it is not mandatory to have a statement “vote for” or “vote against” in order to satisfy the requirements of express advocacy. It is my view that in the ensuing 22 years we have seen advertisements which were clear cut advocacy ads which did not contain any
magic words such as “vote for” or “vote against.” I would give two illustrations—one from the Democratic National Committee and a second from the Republican National Committee in the 1996 Presidential election.

A Democratic National Committee television commercial said:

American values. Do our duty to our parents, President Clinton protects Medicare. The Dole–Gingrich budget tried to cut Medicare $270 billion. Protect families. President Clinton cut taxes for millions of working families. The Dole–Gingrich budget tried to raise taxes on eight million of them. Opportunity. President Clinton proposes tax breaks for tuition. The Dole–Gingrich budget tried to slash college scholarships. Only President Clinton’s plan meets our challenges. Protect our values.

Inexplicably, this has been viewed as an issue ad, but nothing could be clearer on its face than that it advocates the election of then-President Clinton and the defeat of then-candidate Senator Dole.

Then compare a Republican National Committee ad. The announcer comes on and says:

Compare the Clinton rhetoric with the Clinton record.

Then President Clinton comes on in a video tape:

We need to end welfare as we know it.

Then the announcer comes back and says:

But he vetoed welfare reform not once but twice. He vetoed work requirements for the able-bodied. He vetoed putting time limits on welfare, and Clinton still supports giving welfare benefits to illegal immigrants. The Clinton record hasn’t matched the Clinton record.

Then President Clinton’s face comes on and he says on a video tape:

Pood me once, shame on you. Fool me twice, shame on me.

Then the announcer comes on and says:

Tell President Clinton you won’t be fooled again.

Here again the other side of the coin—ineptly interpreted to be an issue ad and not an advocacy ad. In my judgment, Mr. President, those ads clearly constitute advocacy. And when the Supreme Court in Buckley v. Valeo said they needed to preserve the act against invalidation on vagueness grounds, I would suggest that what has happened in the intervening 25 years is that advocacy ads may now be defined legislatively. Just as Justice Jackson said in one of his famous comments, when there are close issues and there is a congressional declaration, that is weighed heavily by the Court on the consideration even of constitutional issues. The Supreme Court has ruled in Buckley v. Valeo on the critical issue of coordination, saying that when “expenditures are controlled by or coordinated with the candidate and his campaign,” that such control or coordinated expenditures are treated as contributions rather than expenditures.

So the Court said if you have coordination on soft money, it constitutes a contribution and would be governed by the limitations of the Federal election campaign law. But what has occurred is exactly the opposite. In a 6–0 vote on December 10, 1998, the Federal Election Commission rejected its auditor’s recommendation that the 1996 Clinton and Dole campaign repay $17.7 million and $7 million, respectively, because the national committee parties had closely coordinated their soft money issue.

Here we have the Supreme Court saying that where there is coordination, there cannot be a distinction and the rule is flouted by the Federal Election Commission, which again illustrates the need for a modification of what is advocacy, what is coordination, and what ought to be subject to campaign finance limitations.

In Buckley v. Valeo, the Supreme Court ruled that:

Even a significant interference with protected rights of political association may be sustained in the area of campaign finance if the means employed are sufficiently important and advance important governmental interest.

The Court recognizes the “appearance of corruption,” which of course is different from corruption—it is very difficult to prove a bribe, very difficult to prove a quid pro quo to establish the existence of corruption—but when the Court talks about the appearance of corruption, which of course is different from corruption—

It is obvious at this stage, some 25 years after Buckley v. Valeo, with the public indignation as to what has happened with the avalanche of soft money and with the fact of much official action in a close time sequence with the avalanche of enormous sums of soft money, that when the Supreme Court talks about the appearance of corruption, which of course is different from corruption—it is very difficult to prove a bribe, very difficult to prove a quid pro quo to establish the existence of corruption—but when the Court recognizes the “appearance of corruption” as a factor which justifies limitations on speech, then, with the 25 years of experience, it is my view that legislation directed at soft money and directed at a modification of the definitions of advocacy and issue ads would be upheld as being constitutional.

The legislation which I am introducing today with respect to soft money would prohibit the national committees or political parties from soliciting or receiving any contributions not subject to the provisions and caps of the Federal Election Campaign Act. And it does demonstrate a sufficiently important interest and employs means closely drawn to avoid unnecessary abridgment of associational freedoms.

Then the Supreme Court goes on to talk about values to be preserved on the prevention of corruption and the appearance of corruption.

It is obvious at this stage, some 25 years after Buckley v. Valeo, with the public indignation as to what has happened with the avalanche of soft money and with the fact of much official action in a close time sequence with the avalanche of enormous sums of soft money, so that when the Supreme Court talks about the appearance of corruption, which of course is different from corruption—it is very difficult to prove a bribe, very difficult to prove a quid pro quo to establish the existence of corruption—but when the Court recognizes the “appearance of corruption” as a factor which justifies limitations on speech, then, with the 25 years of experience, it is my view that legislation directed at soft money and directed at a modification of the definitions of advocacy and issue ads would be upheld as being constitutional.

The legislation which I am introducing today with respect to soft money would prohibit the national committees or political parties from soliciting or receiving any contributions not subject to the provisions and caps of the Federal Election Campaign Act and it does demonstrate a sufficiently important interest and employs means closely drawn to avoid unnecessary abridgment of associational freedoms.

The provision relating to the Maine standby public financing provision is an interesting one, which provides for public funding when an individual spends a phenomenal sum of money for his or her own campaign. It is an open secret that individuals are prepared to spend virtually unlimited sums of money, as illustrated by the past election, or by prior elections. I oppose public financing generally, but it seems to me that where that sort of excessive expenditure is made, there should be public financing which would come into play to match that enormous outpouring of an individual’s wealth. If public financing were available, it is obvious that the individual wouldn’t be inclined to spend all of his own money if it were to be matched by public funding. In a day when seats in the Senate are subject to purchase, the Maine standby provision is one which ought to be adopted as a matter of Federal law.

We are about to embark on the consideration of the McCain-Feingold, S. 27, at 1 o’clock. The provision of this legislation which I am submitting now, which, as I say, had been submitted on September 18, 1997, as then S. 1191, contains a number of revisions which are possibilities for my offering as amendments to S. 27. There is no doubt that we are going to become very deeply involved in the constitutional issue on what is an issue ad and what is an advocacy ad and how we deal with soft money.

In the 1996 Presidential elections, the line was blurred beyond recognition between party and candidate activities. There is substantial evidence that soft money was spent for the 1996 campaign by both parties. According to a November 18, 1996, article in Time magazine, President Clinton’s media strategists collaborated in the creation of a DNC television commercial. The article describes a cadre of Clinton media advisors, including Dick Morris, working side by side with DNC operatives to craft the DNC advertisement which extolled the President’s accomplishments and criticized Republican policies. Republicans did the same.

Such cooperation constitutes violation of the Federal Election Campaign Act [FECA] which provides:
Expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, constitutes contributions to the campaign of such candidate. 2 U.S.C. 441(a)(7)(B)(1).

Thus, if the alleged cooperation between the Clinton/Gore campaign and the DNC took place, then all of the money spent on these DNC advertisements constituted contributions to the Clinton campaign. Under FECA, such contributions would have to be reported upon receipt and would have to be included when calculating the campaign’s compliance with FECA’s strict contribution and expenditure limits. The failure to treat the expenditures as contributions would be a violation of FECA, and the knowing and willful failure to treat the expenditures as contributions would be a criminal violation of FECA.

There are indications that the Clinton/Gore campaign advisors did realize they were violating the law at the time. The Time article quotes one as saying, “If the Republicans keep the Senate, they’re going to subpoena us.”

The content of the DNC and RNC advertisements to have violated Federal election law. When an entity engages in issues advocacy to promote a particular policy, it is exempt from the limitation of FECA and can fund these activities from any source. When an entity engages in express advocacy on behalf of a particular candidate, it is subject to the limitations of FECA and is not permitted to fund such activities with soft money. Where the DNC and RNC advertisements did contain express advocacy, and funded these advertisements with soft money, then these committees violated FECA.

The FEC defines “express advocacy” as follows:

Communications using phrases such as “vote for President,” “reelect your Congressman,” “Smith for Congress,” or language which, when taken as a whole and with limited reference to external events, can have no other reasonable meaning than to urge the defeat of a clearly identified federal candidate, 11 CFR 100.22.

In my judgment, both the DNC and RNC television advertisement crossed the line from issues advocacy to express advocacy. While the DNC and RNC ads did not use the words “vote for Gore” or “vote for Clinton,” these advertisements certainly urged the election of one candidate and the defeat of another. For example, the following is the script of a widely broadcast DNC television commercial:

American values. Do our duty to our parents. Protect Medicare. Do the right thing. The Dole/Gingrich budget tried to cut Medicare $270 billion. Protect families. President Clinton cut taxes for millions of working families. The Dole/Gingrich budget tried to raise taxes on eight million of them. Oppor- tunity. President Clinton proposes tax breaks for tuition. The Dole/Gingrich budget tried to give scholarships. By President Clinton’s plan we meet our challenges, protects our values.

Does this advertisement convey any core message other than urging us to vote for President Clinton?

The RNC ads similarly crossed the line into express advocacy. The following is the script of a widely broadcast RNC television commercial:

(Announcer) Compare the Clinton rhetoric with the Clinton record. (Clinton) “We need to end welfare as we know it.” (Announcer) But he vetoed welfare reform not once, but twice. He vetoed work require- ments for the able-bodied. He vetoed putting time limits on welfare. And Clinton still sup- ports giving welfare money to illegal immigrants. The Clinton rhetoric has not matched the Clinton record. (Clinton) “Fool me once, shame on you. Fool me twice, shame on me.” (Announcer) Tell President Clinton you won’t be fooled again.

Similarly, the Democrats, through their shared use of campaign consultants such as Dick Morris for Clinton/Gore 1996 and Democratic National Committee, crossed the line into illegal contributions on television advertisements.

There has been substantial information in the public domain about the President’s campaign in preparing television commercials for the 1996 campaign. The activity of the President has been documented in a book by Dick Morris and in public statements by former Chief of Staff, Leon Panetta. There is no doubt—and the Attorney General conceded this in oversight hearings by the Judiciary Committee on April 30, 1997—that there would be a violation of the Federal election law if, and when the President prepared campaign commercials that were express advocacy commercials contrasted with issue advocacy commercials.

This bill will end the charade by providing a clear-cut statutory definition of the expression of the name or likeness of a candidate appears with language which praises or criticizes that candidate.

This bill would put teeth into the law that requires political committees or individuals to file reports quarterly until the end of a campaign and to report expenditures of more than $1,000 within 24 hours during the final 20 days of the campaign. This legislation would require independent expenditures of $10,000 or more within 24 hours during the last 3 months of a campaign. This bill would require the individual making the independent expenditure or the treasurer of the committee making the independent expenditure to take and file an affidavit with the FEC that the expenditures were not coordinated with the candidate or his/her committee. Then, the Federal Election Commission would notify within 48 hours the candidate, the campaign committee, and the manager of that independent expenditure. Those individuals would then have 48 hours to take and file affidavits with the FEC that the expenditures were not coordinated with the candidate or his/her committees.

Taking such affidavits coupled with the penalty for perjury would be significant steps to preclude illegal contributions.

Anyone who watched the Governmental Affairs hearings in 1997 knows the alarming role of illegal foreign contributions in our 1996 campaigns. This bill would extend the existing law to better prevent transactions which effectively fund domestic political campaign with foreign financing schemes.

Under current law, it is illegal for a foreign national to contribute money or anything of value, including loan guarantees, either directly or indirectly through another person, in connection with an election to any political office. Knowing and willful viola- tions could result in a fine of up to $30,000, and/or imprisonment up to 3 years.

Mr. Haley Barbour’s testimony before the Governmental Affairs Committee in 1997 highlights the need to strengthen and more actively enforce the foreign money statute to ensure that foreign nationals do not circumvent this intended prohibition on foreign political contributions. This bill would clarify the law to cover all arrangements from foreign nationals through third parties where funds from these transactions ultimately reach a U.S. political party or candidate.

In his testimony, Mr. Barbour acknowledged that the National Policy Forum (NPF), which received a $2.1 million loan guarantee in October 1994, from Young Brothers Development, the U.S. subsidiary of a Hong Kong company which provided the money. The loan guarantee served as a collateral for a 20% loan to Young Brothers. The loan was repaid approximately $700,000 to cover the default.

The weak link in the existing law is that many people have argued that the Federal campaign finance law does not apply to soft money. Accordingly, there are those who would argue that the NPF transaction described above would be legal so long as only soft money was involved. We need to make it clear that even the legitimate activities which effectively fund domestic political parties or candidates under any circumstances.

My bill closes this potential loophole by explicitly stating that the foreign money provisions of the bill apply to all foreign contributions and donations, both soft and hard money.

The decision of the Supreme Court of the United States in Buckley versus Valeo prohibits legislation limiting the amount of money an individual may spend on his/her campaign. Maine recently enacted a statute designed to deal with this issue which provides a model for Federal legislation.
Under the Maine legislation, a voluntary cap is placed on the total amount that candidates can spend during their campaigns for public office. The law further provides that if one candidate exceeds the spending limit, an opponent who has complied with the limit may file a legal defense fund with an amount equal to the amount by which the offending candidate exceeded the spending limit. With such matching funds available, it would be a real deterrent to prevent a candidate from exceeding the expenditure cap since that candidate would no longer receive an advantage from his or her additional expenditure. This provision would probably not result in significant public expenditures; and to the extent that it does, it would be within an executive summary.

This bill would subject contributions for legal defense funds to limits and mandatory disclosure for all Federal office holders and candidates. Testimony before the Governmental Affairs Committee disclosed that Mr. Yah Lin “Charlie” Trie brought in $639,000 for President Clinton’s legal defense fund. While those funds were ultimately returned, there was never any question of the donors and the fact that those contributions was delayed until after the 1996 election.

Contributions to legal defense funds pose a public policy issue similar to campaign contributions. This bill would impose the same limits on contributions to legal defense funds which are required for political contributions.

Mr. President, I ask unanimous consent that the legislation I introduced in 1997, along with an executive summary, be printed in the RECORD.

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

S. 119 (Introduced September 18, 1997)

In lieu of the material proposed to be inserted, insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Senate Campaign Finance Reform Act of 1998.”

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—SENATE ELECTION SPENDING LIMITS AND BENEFITS

Sec. 101. Senate election spending limits and benefits.

Sec. 201. Authorization of appropriations.

Sec. 301. Effective date.

Sec. 401. Severability.

Sec. 402. Expedited review of constitutional challenge.

Sec. 403. Regulations.

Sec. 404. Appropriations.

Title IV—Severability; Judicial Review

Sec. 501. Candidates eligible to receive benefits.

Sec. 502. Threshold contribution requirements.

Sec. 503. Definitions.

Title V—Spending Limits and Benefits

Sec. 101. Senate election spending limits and benefits.

(a) IN GENERAL.—The Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"TITLE V—SPENDING LIMITS AND BENEFITS FOR SENATE ELECTION CAMPAIGNS

SEC. 501. CANDIDATES ELIGIBLE TO RECEIVE BENEFITS.

(a) IN GENERAL.—For purposes of this title, a candidate is an eligible Senate candidate if the candidate—

(i) meets the primary and general election filing requirements of subsections (c) and (d);

(ii) meets the threshold contribution requirements of subsection (e).

Sec. 502. Threshold contribution requirements.

(a) IN GENERAL.—The Federal Election Commission shall not make expenditures for the primary election in excess of 67 percent of the general election expenditure limit under section 502(a); and

(b) PRIMARY AND RUNOFF EXPENDITURE LIMITS.—The requirements of this subsection are met if—

(i) the candidate and the authorized committees did not make expenditures for the general election ballot under section 502(a); and

(ii) the candidate and the candidate's authorized committees did not make expenditures for any runoff election in excess of 20 percent of the general election expenditure limit under section 502(a).

(c) PRIMARY FILING REQUIREMENTS.—(1) IN GENERAL.—The requirements of this subsection are met if—

(A) the candidate and the candidate's authorized committees did not accept contributions for the primary election that would cause the aggregate amount of contributions to exceed the sum of the amount of the general election expenditure limit under section 502(a), reduced by any amounts transferred to the current election cycle from a previous election cycle and not taken into account under subparagraph (A)(ii).

(B) the candidate and the candidate's authorized committees did not accept contributions for the general election ballot under section 502(a), reduced by any amounts transferred to the current election cycle from a previous election cycle and not taken into account under subparagraph (A)(ii).

(ii) will not accept any contributions in violation of section 315; and

(iii) except as otherwise provided by this title, will not accept any contribution for the general election involved to the extent that the contribution would cause the aggregate amount of contributions to exceed the sum of the amount of the general election expenditure limit under section 502(a), reduced by any amounts transferred to the current election cycle from a previous election cycle and not taken into account under subparagraph (A)(ii).

(b) PRIMARY AND RUNOFF EXPENDITURE LIMITS.—The requirements of this subsection are met if—

(i) the candidate and the candidate's authorized committees did not make expenditures for the primary election in excess of 67 percent of the general election expenditure limit under section 502(a); and

(ii) the candidate and the candidate's authorized committees did not make expenditures for any runoff election in excess of 20 percent of the general election expenditure limit under section 502(a).

Sec. 503. Definitions.

Sec. 504. Reporting requirements.

Sec. 505. Effective date.

Sec. 506. Appropriations.
"(b) PAYMENT OF TAXES.—The limitation under subsection (a) shall not apply to any expenditure for Federal, State, or local taxes with respect to earnings on contributions raised.

"SEC. 503. MATCHING FUNDS FOR ELIGIBLE SENATE CANDIDATES IN RESPONSE TO EXPENDITURES BY NON-ELIGIBLE OPPONENTS.

"(a) IN GENERAL.—Not later than 5 days after the Commission determines that a Senate candidate has made or obligated to make expenditures or accepted contributions during an election in an aggregate amount in excess of the applicable election expenditure limit under sections 501(b) or 502(b), the Commission shall make available to an eligible Senate candidate in the same election an aggregate amount of funds equal to the amount in excess of the applicable limit.

"(b) ELIGIBLE SENATE CANDIDATE OPPOSED BY MORE THAN 1 NON-ELIGIBLE SENATE CANDIDATE.—For purposes of subsection (a), if an eligible Senate candidate is opposed by more than 1 non-eligible Senate candidate in the same election, the Commission shall take into account only the amount of expenditures made by the non-eligible Senate candidates that expends, in the aggregate, the greatest amount of funds.

"(c) TIME TO MAKE DETERMINATIONS.—The Commission, upon the request of a candidate or on its own initiative, make a determination whether a candidate has made or obligated to make an aggregate amount of expenditures in excess of the applicable limit under subsection (a).

"(d) USE OF FUNDS.—Funds made available to a candidate under subsection (a) shall be used in the same manner as contributions are used.

"(e) TREATMENT OF FUNDS.—An expenditure made with funds made available to a candidate under section shall be treated as an expenditure for purposes of the expenditure limits under sections 501(b) and 502(a).

"SEC. 504. CERTIFICATION BY COMMISSION.

"(a) IN GENERAL.—Not later than 48 hours after an eligible candidate qualifies for a general election ballot, the Commission shall certify the candidate’s eligibility for matching election 503.

"(b) DETERMINATIONS BY COMMISSION.—A determination (including a certification under this section) shall be made by the Commission under this title shall be final, except to the extent that the determination is subject to examination and audit by the Commission under section 505.

"SEC. 505. REVOCATION; MISUSE OF BENEFITS.

"(a) REVOCATION OF STATUS.—If the Commission determines that any eligible Senate candidate has received contributions or made or obligated to make expenditures in excess of—

"(1) the applicable primary election expenditure limit under this title; or

"(2) the applicable general election expenditure limit under this title, the Commission shall revoke the certification of the candidate as an eligible Senate candidate and notify the candidate of the revocation.

"(b) MISUSE OF BENEFITS.—If the Commission determines that any benefit made available to an eligible Senate candidate under this title was not used as provided for in this title or that a candidate has violated any of the spending limits contained in this Act, the Commission shall notify the candidate, and the candidate shall pay the Commission an amount equal to the value of the benefit.

"(c) TRANSITION PERIOD.—Expenditures made before January 1, 1998, shall not be counted as expenditures for purposes of the limitations contained in the amendment made by subsection (a).

"TITLE II—REDUCTION OF SPECIAL INTEREST INFLUENCE

Subtitle A—Provisions Relating to Soft Money of Political Committees

"SEC. 201. SOFT MONEY OF POLITICAL PARTY COMMITTEES.

"Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)) is amended by adding at the end the following:

"SEC. 204. SOFT MONEY OF POLITICAL PARTY COMMITTEES.

"(a) NATIONAL POLITICAL COMMITTEES.—A national committee of a political party (including a national congressional campaign committee of a political party, an entity that is established, maintained, or controlled by the national committee, a national congressional campaign committee of a political party, and an officer or agent of any such party or entity but not including an entity regulated under subsection (b)) shall not solicit or receive any contributions, donations, or transfers of funds, or spend any funds, not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(b) STATE, DISTRICT, AND LOCAL COMMITTEES.—

"(1) LIMITATION.—Any amount that is expended or disbursed by a State, district, or local committee of a political party (including an established, maintained, or controlled by a State, district, or local committee of a political party or an agent or officer of any such committee or entity) during a calendar year and which a Federal election is held, for any activity that might affect the outcome of a Federal election, including any voter registration or get-out-the-vote activity (other than a Federal election unless the activity is described in paragraph (1));

"(2) EXCEPTION.—Paragraph (1) does not apply to the solicitation or receipt of funds by an individual who is a candidate for a State or local office if the solicitation or receipt of funds is permitted by law for the individual’s State or local campaign committee.

"SEC. 202. STATE PARTY GRASSROOTS FUND.

"(a) INDIVIDUAL CONTRIBUTIONS.—Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 442(a)(1)) is amended—

"(1) in subparagraph (B) by striking “or” at the end;

"(2) by redesignating subparagraph (C) as subparagraph (D); and

"(3) by inserting after subparagraph (B) the following:

"(C) to—

"(i) a State Party Grassroots Fund established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $20,000;

"(ii) any other political committee established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $5,000;

"(b) MULTICANDIDATE COMMITTEE CONTRIBUTIONS TO STATE PARTY.—Section 315(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 442(a)(2)) is amended—

"(1) in subparagraph (B), by striking “or” at the end;

"(2) by redesignating subparagraph (C) as subparagraph (D); and

"(3) by inserting after subparagraph (B) the following:

"(C) to—

"(i) a State Party Grassroots Fund established and maintained by a State committee...
of a political party in any calendar year which in the aggregate, exceed $15,000.

(ii) to any other political committee established and maintained by a State committee of a political party which, in the aggregate, exceed $5,000; except that the aggregate contributions described in this subparagraph that may be made by a multicandidate political committee to the State Party Grassroots Fund and all committees of a State Committee of a political party in any State in any calendar year shall not exceed $15,000; or.

(c) OVERALL LIMIT.—

(1) IN GENERAL.—Section 315(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(a)(3)) is amended to read as follows:

''(3) OVERALL LIMIT.—

(A) ELECTION CYCLE.—No individual shall make contributions during any election cycle that, in the aggregate, exceed $60,000.

(B) CALENDAR YEAR.—No individual shall make contributions during any calendar year.

(i) to all candidates and their authorized political committees that, in the aggregate, exceed $25,000; or

(ii) to all political committees established and maintained by State committees of a political party that, in the aggregate, exceed $20,000.

(C) NON-ELECTION YEARS.—For purposes of subparagraph (B)(i), any contribution made to a candidate or the candidate’s authorized political committees in a year other than the calendar year in which the election is held with respect to which the contribution is made shall be treated as being made during the calendar year in which the election is held.

(2) DEFINITION.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following:

''(20) ELECTION CYCLE.—The term 'election cycle' means—

(A) in the case of a candidate or the authorized committees of a candidate, the period beginning on the day after the date of the most recent general election for the specific office or seat that the candidate seeks and ending on the date of the next general election for that office or seat; and

(B) in the case of all other persons, the period beginning on the first day following the date of the last general election and ending on the date of the next general election.

(3) STATE PARTY GRASSROOTS FUNDS.—

(A) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 301 et seq.) (as amended by section 201) is amended by adding at the end the following:

''SEC. 325. STATE PARTY GRASSROOTS FUNDS.

''(a) DEFINITION.—In this section, the term 'State or local candidate committee' means a committee established, financed, maintained, and controlled by a candidate for other than Federal office.

(b) TRANSFERS.—Notwithstanding section 315(a)(4), no funds may be transferred by a State committee of a political party from its State Party Grassroots Fund to any other State Party Grassroots Fund or to any other political committee, except a transfer may be made to district or local committee of the same political party in the same State if the district or local committee—

(i) has established a separate segregated fund for purposes described in section 324(b)(1); and

(ii) uses the transferred funds solely for those purposes.

(c) REPORTS RECEIVED BY GRASSROOTS FUNDS FROM STATE AND LOCAL CANDIDATE COMMITTEES.—

''(1) IN GENERAL.—Any amount received by a State Party Grassroots Fund from a State or local candidate committee for expenditures described in section 324(b)(1) that are for the benefit of that candidate shall be treated as meeting the requirements of section 324(b)(1) and section 304(f) if—

(A) the amount is derived from funds which, as determined by the Commission with respect to any limitation or prohibition as to source or dollar amount specified in paragraphs (1)(A) and (2)(A) of section 315(a); and

(B) the State or local candidate committee—

(i) maintains, in the account from which payment is made, records of the sources and amounts of funds for purposes of determining whether those requirements are met; and

(ii) certifies that the requirements were met.

''(2) DETERMINATION OF COMPLIANCE.—For purposes of paragraph (1)(A), in determining whether the funds transferred meet the requirements of this Act described in paragraph (1)(A)—

(A) a State or local candidate committee's campaign fund consisting of the funds most recently received by the committee; and

(B) the committee must be able to demonstrate that its cash on hand contains funds meeting those requirements sufficient to cover the transferred funds.

''(3) REPORTING REQUIREMENTS.—Any political committee, State Party Grassroots Fund that receives a transfer described in paragraph (1) from a State or local candidate committee shall be required to meet the reporting requirements of this Act, and shall submit to the Commission all certifications received, with respect to receipt of the transfer from the candidate committee.

''(21) STATE PARTY GRASSROOTS FUND.—The term 'State Party Grassroots Fund' means a separate segregated fund established and maintained by a State committee of a political party solely for the purpose of making expenditures and other disbursements described in section 324(b)(1).

''SEC. 303. REPORTING REQUIREMENTS.

''(a) REPORTING REQUIREMENTS.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 201) is amended by adding at the end the following:

''(J) in the case of an authorized committee, disbursements for the primary election, the general election, and any other election in which the candidate participates.

''(b) NAMES AND ADDRESSES.—Section 304(b)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(5)(A)) is amended—

(A) by striking ''within the calendar year''; and

(B) by inserting ''and'' at the end of subparagraph (H);

''(c) REPORTS OF EXEMPT CONTRIBUTIONS.—Section 304(b)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(5)(A)) is amended—

(A) by striking ''and'' at the end of paragraph (H); and

(B) by inserting ''and'' at the end of subparagraph (I); and

(C) by adding at the end the following new subparagraph:

''(d) OTHER REPORTING REQUIREMENTS.—

(1) AUTHORIZED COMMITTEES.—Section 304(b)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(4)) is amended—

(A) by striking ''and'' at the end of subparagraph (H); and

(B) by inserting ''and'' at the end of subparagraph (I); and

(C) by adding at the end the following new subparagraph—

''(2) IN GENERAL.—A person other than a committee of a political party that makes aggregate disbursements totaling in excess of $10,000 for activities described in paragraph (1) shall file a statement with the Commission—

(A) within 48 hours after the disbursements are made; or

(B) in the case of disbursements that are made within 20 days of an election, within 24 hours after the disbursements are made.

''(2) ACTIVITY.—The activity described in this paragraph is—

(A) any activity described in section 315(b)(2)(A) that refers to any candidate for Federal office, any political party, or any Federal election campaign committee;

(B) any activity described in subparagraph (B) or (C) of section 315(b)(2).

''(3) LIMITATION.—If a political committee has receipts or disbursements to which this subsection applies from any person aggregating in excess of $200 for any calendar year, for any activity described in this paragraph, the political committee shall separately itemize its reporting for such person in the same manner as required in paragraphs (3)(A), (5), or (6) of subsection (b).''

''REPORT OF EXEMPT CONTRIBUTIONS.—

Section 301(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(b)) is amended by adding at the end the following:

''(C) The exclusion provided in subparagraph (B)(viii) shall not apply for purposes of any requirement to report contributions under this Act, and disbursements aggregating in excess of $300 shall be reported.''

''(c) REPORTS BY STATE COMMITTEES.—

Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) (as amended by subsection (a)) is amended by adding at the end the following:

''(g) FILING OF STATE REPORTS.—In lieu of any report required to be filed by this Act, the Commission may allow a State committee of a political party with which the Commission a report required to be filed under State law if the Commission determines such reports contain substantially the same information.''

''(d) OTHER REPORTING REQUIREMENTS.—

(1) AUTHORIZED COMMITTEES.—Section 306(b)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 436(b)(4)) is amended—

(A) by striking ''and'' at the end of subparagraph (H); and

(B) by inserting ''and'' at the end of subparagraph (I); and

(C) by adding at the end the following new subparagraph—

''(2) IN THE CASE OF AN AUTHORIZED COMMITTEE, disbursements for the primary election, the general election, and any other election in which the candidate participates.''

''(e) NAMES AND ADDRESSES.—Section 306(b)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 436(b)(5)(A)) is amended—

(A) by striking ''within the calendar year''; and

(B) by inserting ''and'' at the end of subparagraph (H); and

''(f) ELECTION ACTIVITY OF PERSONS OTHER THAN POLITICAL PARTIES.—

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 205) is amended by adding at the end the following:

''(2) AFTER 'OPERATING EXPENDITURE'.

Subtitle B—Soft Money of Persons Other Than Political Parties

SECTION 211. SOFT MONEY OF PERSONS OTHER THAN POLITICAL PARTIES.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 201) is amended by adding at the end the following:

''(A) any activity described in section 315(b)(2)(A) that refers to any candidate for Federal office, any political party, or any Federal election campaign committee;

(B) any activity described in subparagraph (B) or (C) of section 315(b)(2).''
“(3) ADDITIONAL STATEMENTS.—An additional statement shall be filed each time additional disbursements aggregating $10,000 are made by a person described in paragraph (1).

“(4) APPLICABILITY.—This subsection does not apply to—

(a) a candidate or a candidate’s authorized committee or agent;

(b) an independent expenditure.

“(5) CONTENTS.—A statement under this section shall contain such information about the disbursements as the Commission shall prescribe, including—

(A) the name and address of the person or entity to whom the disbursement was made;

(B) the name and purpose of the disbursement; and

(C) if applicable, whether the disbursement was in support of, or in opposition to, a candidate or a political party, and the name of the candidate or the political party.’’.

Subtitle C—Contributions

SEC. 221. PROHIBITION ON CONTRIBUTIONS TO FEDERAL CANDIDATES AND OF DONATIONS OF ANYTHING OF VALUE TO POLITICAL PARTIES BY FOREIGN NATIONALS.

Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended—(1) by striking the heading and inserting “PROHIBITION ON CONTRIBUTIONS TO CANDIDATES AND DONATIONS OF ANYTHING OF VALUE TO POLITICAL PARTIES BY FOREIGN NATIONALS’’; and

(2) in subsection (a)—

(A) by inserting “or to make a donation of money or any other thing of value to a political committee of a political party” after “office’’; and

(B) by inserting “or donation” after “contribution’’ the second place it appears.

SEC. 222. CLOSING OF SOFT MONEY LOOPTHOLE.

Section 309 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(3)) is amended by striking “contributions” and inserting “contributions (as defined in section 301) to a candidate or donations (including a contribution as defined in section 301) to political committees’’.

SEC. 223. CONTRIBUTIONS TO DEFRAU LEGAL EXPENSES OF CERTAIN OFFICIALS.

(a) CONTRIBUTIONS TO DEFRAU LEGAL EXPENSES.—

(1) PROHIBITION ON MAKING OF CONTRIBUTIONS.—It shall be unlawful for any person to make a contribution to a candidate for nomination to, or to election to, a Federal office (as defined in section 301(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(3)(B)) or an individual who is a holder of a Federal office, or any head of an Executive department, or any entity established on behalf of such individual to defray legal expenses of such individual—(i) to the extent it would result in the aggregate amount of such contributions from such individual, to defray legal expenses of such individual or (ii) an individual who is a holder of a Federal office, or any head of an Executive department, or any entity established on behalf of such individual to defray legal expenses of such individual—

(I) to exceed the greater of $25,000 or 300 percent of the contribution involved in such violation, imprisoned for not more than 1 year, or both.

(2) CONSTRUCTION OF PROHIBITION.—Nothing in this section shall be construed to permit the making of a contribution that is otherwise prohibited by law.

(b) REPORTING REQUIREMENTS.—A candidate for nomination to, or election to, a Federal office, an individual who is a holder of a Federal office, or any head of an Executive department, or any entity established on behalf of such individual to defray legal expenses of such individual shall file a quarterly report with the Federal Election Commission including the following information:

(1) The name and address of each contributor who makes a contribution in excess of $50.

(2) The amount of each contribution.

(3) The name and address of each individual or entity receiving disbursements from the fund.

(4) A brief description of the nature and amount of each disbursement.

(5) The name and address of any provider of pro bono services to the fund.

(6) The fair market value of any pro bono services provided to the fund.

Subtitle D—Independent Expenditures

SEC. 231. CLARIFICATION OF DEFINITIONS RELATED TO INDEPENDENT EXPENDITURES.

Section 303 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by striking paragraph (17) and (18) and inserting the following:

“(17) INDEPENDENT EXPENDITURE.—The term ‘independent expenditure’ means an expenditure that—

(A) contains express advocacy; and

(B) is made without cooperation or consultation with, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate.

“(18) EXPRESS ADVOCACY.—

(A) IN GENERAL.—The term ‘express advocacy’ means a communication that, taken as a whole and with limited reference to external events, makes positive statements about or negative statements about or makes an expression of support for or opposition to a specific candidate, a specific group of candidates, or candidates of a particular political party.

(B) EXPRESSION OF SUPPORT OR OPPOSITION TO.—In subparagraph (A), the term ‘expression of support for or opposition to’ includes a suggestion to take action with respect to an election, such as to vote for or against, make contributions to, or participate in campaign activity, or to refrain from taking action.

“(C) VORPINO RECORDS.—The term ‘express advocacy’ does not include the publication and distribution of a communication that is limited to providing information about votes by elected officials on matters that and that does not expressly advocate the election or defeat of a clearly identified candidate.

SEC. 232. REPORTING REQUIREMENTS FOR INDEPENDENT EXPENDITURES.

(a) TIME FOR REPORTING CERTAIN EXPENDITURES.—(1) Section 306(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 436(c)) is amended—

(1) in paragraph (2), by striking the undesignated matter after subparagraph (C); and

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2), as amended by paragraph (1), the following:—

“(D) TIME FOR REPORTING CERTAIN EXPENDITURES.—

“(1) EXPENDITURES AGGREGATING $1,000.—

“(A) INITIAL REPORT.—A person that makes or obligates to make independent expenditures aggregating $1,000 or more after the 90th day and up to and including the 20th day before an election shall file a report describing the expenditures within 24 hours after that amount of independent expenditures has been made or obligated to be made aggregating an additional $1,000 with respect to the same election as that to which the initial report relates.

“(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person filing the report shall file an additional report each time that independent expenditures are made or obligated to be made aggregating an additional $10,000 with respect to the same election as that to which the initial report relates.

“(2) EXPENDITURES AGGREGATING $10,000.—

“(A) INITIAL REPORT.—A person that makes or obligates to make independent expenditures aggregating $10,000 or more after the 90th day and up to and including the 20th day before an election shall file a report describing the expenditures within 24 hours after that amount of independent expenditures has been made or obligated to be made.

“(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person filing the report shall file an additional report each time that independent expenditures are made or obligated to be made aggregating an additional $10,000 with respect to the same election as that to which the initial report relates.

“(3) CONTENTS OF REPORT.—A report under this subsection shall include—

(A) shall be filed with the Commission;

(B) shall contain the information required by subsection (c);’’.

(b) AFFIDAVIT REQUIREMENT.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by subsection (a)) is amended—

(1) in subsection (c)(2)(B), by inserting “(in the case of a committee, by both the chief executive officer and the treasurer of the committee)” after “certification’’; and

(2) by adding at the end the following:

“(c) CERTIFICATION REQUIREMENTS.—

(1) COMMITTEE.—Not later than 48 hours after receipt of a certification under subsection (c)(2)(B), the Commission shall notify the candidate to which the independent expenditure refers and the candidate’s campaign manager and campaign treasurer that before an expenditure has been made and a certification has been received.

(2) CANDIDATE.—Not later than 48 hours after receipt of notification under paragraph (1), the candidate and the candidate’s campaign manager and campaign treasurer shall each file with the Commission a certification, under penalty of perjury, stating whether or not the independent expenditure was made in cooperation, consultation, or concert, with, or at the request or suggestion of the candidate or the candidate’s committee or agent of such candidate.’’.

TITLE III—APPROPRIATIONS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

The Federal Election Campaign Act of 1971 is amended—

(1) by striking section 314 (2 U.S.C. 439c) and inserting the following:

“SEC. 314. (REPEALED);’’.

and

(2) by inserting after section 407 the following:

“SEC. 408. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for the fiscal year ending September 30, 1990, and for each fiscal year thereafter, such sums as may be necessary to carry out this Act and chapters 95 and 96 of the Internal Revenue Code of 1986.’’.
Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order be carried over the next 12:50 p.m. without objection. It is so ordered.

The PRESIDING OFFICER. The roll is called.

Mr. MURKOWSKI. I thank the Chair.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order be carried over the next 12:50 p.m. without objection. It is so ordered.

The PRESIDING OFFICER. The roll is called.

Mr. MURKOWSKI. I thank the Chair.

Mr. MURKOWSKI. Mr. President, I call the attention of my colleagues to a release by OPEC on Friday where OPEC indicated it was cutting the production of oil approximately 1 million barrels a day, to approximately 24.2 million barrels a day. This follows a cut in February of 1.5 million barrels a day. I am sure many will not reflect on the significance of this action, but as we go into the summer season, the realization, again, that we are dependent on OPEC will be a little consideration this afternoon.

Many people forget that in 1973, when we had the Arab oil embargo and the Yom Kippur war, we were approximately 37 percent dependent on imported oil. Today we are 56 percent dependent on imported oil. And it is not that there is necessarily a shortage of oil in the world, but because our dependence on OPEC and their awareness that they are better off tightening up the supply and keeping the price high, we have seen a rather curious and significant effect associated with our dependence on OPEC and our economy.

It has happened that the OPEC nations have decided it is better to curtail the supply and keep the price high than to continue to produce oil. As a consequence, we are seeing fourth quarter earnings of the Fortune 500 dramatically affected by the cost of energy, and particularly oil. It is estimated that in the last 18 months, one of the major contributors to a decline in our economy, and hence a decline in the stock market, the cost of energy. We have seen OPEC operate over the last 18 years in a rather undisciplined, rather chaotic manner. That has changed dramatically. Today we see an organized OPEC, a group of countries that actually set a cartel in the sense of setting a price, something that would be illegal in the United States, subject to antitrust laws in the United States. They got together and decided they were going to maintain a floor and ceiling on the price of oil. That floor was going to be about $22, and the ceiling was going to be about $34. So each time the price begins to fall, OPEC reduces its supply. As a consequence, we are seeing oil prices now about $25 a barrel. About 18 months ago, we were seeing oil prices at $10 a barrel.

OPEC fears, obviously, any slowdown in economic growth that will lead to an oil glut, so they simply reduce the supply. Any reduction in world supply does affect our economy as well as the world's economy and makes higher prices for energy.

There are those who suggest there might be another OPEC cut on the horizon that might be up to 2 million barrels per day if a continued slowdown in the economy actually prevails.

What does this mean for the American consumer? The Energy Information Agency predicts that prices of gasoline this summer may run from $1.60 to as high as $2.10 a gallon for the rest of this year. The reason for that, obviously, is the supply and demand, increasing demand and our increasing dependence on imports.

I indicated we were looking at about 56 percent dependence on OPEC, but it gets worse. The Department of Energy has suggested that by the year 2004 to 2005—somewhere in that area—we will be close to 60 percent dependent. In the year 2010, we will be somewhere in the area of 65 percent dependent.

What we really have to do is begin to spotlight where we can decrease our dependence on imported energy supplies, reduce reliance on foreign oil imports. That is rather amusing to me as we
look at the facts associated with what is happening in our economy and the energy crisis that, for all practical purposes, with the exception of what is happening in California, we have chosen to ignore, in spite of the fact that last week the Wall Street Journal came out with an article indicating that the State of New York will have to increase its production generating capacity of energy somewhere in the range of 25 percent in the next year to avoid brownouts, blackouts, and shortages.

It is a funny thing because unless the wheel really squeaks, we do not maintain any attention to take the necessary steps to avoid that. We just simply assume it will not happen or it probably will occur on somebody else's watch or somehow we will get through.

Let me share with you what has changed. In 1988, U.S. consumption of oil was 9.9 million barrels a day. In January of this year, it was 14.6 million barrels a day. Consumption has gone up dramatically—roughly 1.3 million barrels a day.

The offset to that is production. What is our production in the United States? Our production in 1988 was 8.1 million barrels, and it has dropped. In January, production in the U.S. was 5.9 million barrels a day. We are down over 2 million barrels of U.S. daily production. That equates, obviously, to a dependence on more imports.

What are our imports? In 1988, they were 5.1 million barrels a day. In January of this year, they were 8.6 million barrels. It is approximately 3.55 million barrels a day more is imported into this Nation than back in 1998. As I indicated, our foreign dependence in 1998 was about 39 percent; today it is 59 percent. The price of crude oil in 1998 was $18 compared to $29, $27 today. Adjusted for inflation for the year 2001, that is $26 vis-a-vis $35 a day. That is what has changed.

Let's talk a little bit about the national security interests of this country. I think that the floor will be rather ironic should we have a foreign policy that depends to a significant degree on imported oil from Iraq, our good friend Saddam Hussein. We fought a war in 1991. We lost 147 lives. We had 437 wounded. 23 taken prisoner. I don't want to even estimate the cost to the American taxpayer. That was a war over oil. Make no mistake about it. It was to ensure that Saddam Hussein did not invade Kuwait and go on into Iran and control the world's supply of oil. We fought that war. We won that war.

But what are we doing today? We are importing 750,000 barrels of oil from Iraq. We have a good friend Saddam Hussein. Isn't that ironic?

Let me go a step further. It gets worse. We have flown 234,000 individual sorties—airplane flights to enforce the no-fly zone over Iraq—since 1992. What are we doing? One could simplify the debate and suggest we are taking that 750,000 barrels of oil, putting it in our airplanes, and then bombing.

Let's go a little further. What is he doing with the money we pay for that oil? He is taking care of his Republican Guards. No question about that. Then instead of taking care of the needs of people, he is developing a missile defense and chemical capability. At whom is he aiming? One of our greatest allies—Israel. Maybe I am oversimplifying that, but if you boil it down, that is what it amounts to. Rather ironic. We just seem to shrug our shoulders and say that is the way it is.

I will ask the question of our national security interests. At what point do we reach a degree of dependence on imports where we compromise our national security?

There was a report prepared a few weeks ago by the Center for Strategic and International Studies. It took about 3 years to complete that report. It launched its thorough initiative and began to examine at what point we began to compromise our national security. The bottom line is we are already there.

Some of the highlights of this report deserve some examination. The report assesses the international energy supply and demand relationship likely to prevail in the first two decades of the 21st century—in other words, the next 20 years—and is identifying what effect it will have on global markets between 2000 and 2020 in that study.

The energy outlook to 2020 is not very bright. It suggests during the next 20 years, provided there is no extended global economic downturn, energy demand is projected to expand more than 50 percent. Further, it states the growth will be unevenly distributed with demand increasing in the industrialized world by some 23 percent while more than double the amount in the developing world, with Asia accounting for the bulk of the increase. It is not just the United States. We think the world revolves around us. There are developing nations; there is China. Further, the central and core to the geopolitics of energy is the fact that energy demand will be met in essentially the same way it was met at the end of the 20th century, fossil fuels—mainly oil—providing the bulk of global energy consumption, rising marginally from 86 percent in 2000 to an 88 percent share in 2020.

And oil will dominate global energy use. They identify from where the oil will come. The Persian Gulf will remain the key marginal supplier of oil to the world markets, with Saudi Arabia in an unchallenged lead, and if estimates are correct, the Persian Gulf will expand oil production during that range of 25 percent to 2020. That is from where it will come.

It further states that U.S. net imports will continue their steady growth. It further states that electricity will continue to be the most rapidly growing sector of energy demand in developing countries in Asia, central South Africa, and South America showing the greatest increase.

Then it goes into the geopolitics—this is on what every member of this body should reflect—the continuing domestic fragility of key energy producing states. We will be relying on oil from unstable countries and regions throughout much of the century. By the year 2020, fully one estimated total global oil demand will be met from countries that pose a high risk of internal instability.

Further, the growing fact of nonstate actors will be evident in three distinct areas. First, employing information technologies, nongovernment organizations—NGOs will play a growing role in defining the ways energy is produced and consumed. Second, terrorist groups, with access to the same technologies, will be in a position to inflict greater operational damage on increasingly complex energy infrastructures. Radical activists will be in a position to disrupt operation infrastructures through cyberterrorism. The potential for armed conflict in energy-producing nations will remain high.

I recommend each member review this CSIS report because it stresses the vulnerability of the United States to increasing dependence on energy. I conclude with one reference. A number of my colleagues are on a bill to put an area known as ANWR, in my State of Alaska, into a wilderness. We have a chart showing a map of the area in question. It is appropriate to recognize a few facts. The misstated, ANWR is 19 million acres. ANWR is not at risk because ANWR has already been foreclosed into a wilderness in this area, 8.5 million acres, and 9 million acres is set off as a refuge and is an undisturbed area. There is a village, Katovik, with 227 people. There are people in it who live their lives there. We have a picture of the village. You can see the ocean, the radar, the village homes, the airport, and so forth. My point in bringing this up is to say that the myth that somehow this is an unoccupied area.

It is beyond my comprehension why some Members would object to our energy bill, which has ANWR in it as a relief, if you will, to reduce our dependence. I ask unanimous consent to speak for 5 more minutes.

Mr. MURKOWSKI. In conclusion, let me bring up the reality that we have an energy bill that is about 303 pages long. It covers increasing energy efficiency, alternate fuels, and increasing our own domestic resources. It seems that all the interested parties, including the media, are concerned with one small portion, and that is the portion that suggests we reduce our dependence on imports and imported energy. That is one of the objectives in the bill—to reduce our imports of foreign energy to less than 50 percent by the year 2010.

To get back to this area, because it is the area of dispute, we are looking at a
lease-sale in this coastal plain. The reason that is the area is that it is estimated approximately 10 billion to 16 billion barrels of oil are mainly in this area. If it is within the estimate of 16 billion barrels, it will be the largest oilfield found in the world in the last 40 years.

Here is Prudhoe Bay, which has been 20 percent of America's production for the last 27 years, and the pipeline, 800 miles long, traverses this area. There are some in this body who want to put it in wilderness. Some are proposing they liquidate the bill. That is like fiddling while Rome burns.

We have an energy crisis in this country. We are looking for relief. We have an area where we have identified a significant likelihood of a major discovery that would relieve our dependence on imported oil, and some Members want to put it into wilderness. Some Members want to stop discussion of the bill. Some Members want to filibuster the bill. They are looking for propaganda. The experience is, if you are looking for oil, you go where you are most likely to find it. The geologists tell us this is the place. The infrastructure and an 800-mile pipeline are already ready there. But the environmentalists say no. They don’t have any scientific evidence to suggest it cannot be done, they simply say no because it gives them a cause, membership dollars, and so forth.

People are concerned about the caribou. Here is a picture of the caribou. You have seen it before, Mr. President. They are wandering around Prudhoe Bay, they are not disturbed, they are very comfortable. These are real, Mr. President, they are not stuffed. I can show you another picture. This happens to be 3 bears going for a walk. They happen to be walking on a pipeline because it is easier than walking in the snow. There is a compatibility here. The environment has not change, but I am suggesting we have the technology to do it safely.

Here is a chart with the new technology. This came out of the New York Times science section. This shows how drilling occurs today, with 3-D seismic. You can directionally drill and find these pockets of oil.

Lastly, the technology of how it is done with the ice roads. We develop no gravel roads. We put down chipped ice. We develop no gravel roads. We put down chipped ice. We develop no ice roads. We develop no gravel roads.

Come in foreign ships, because every single drop of oil that moves from Alaska has to flow in a vessel owned by a U.S. company with U.S. crews, built in a U.S. shipyard, because that is what the Jones Act mandates regarding the movement of goods and services between the two countries. California should concern itself, and so should Washington, because otherwise that oil will be coming in in foreign vessels owned by foreign companies that do not have the deep pockets of an Exxon.

I will be talking about this at other times, but I implore my colleagues to reflect on reality. We have some relief here if we have the gumption and commitment to recognize the scientific capability and technology that we now have to do it right.

Mr. President, I ask unanimous consent the portion of the executive summary of the CRS study on the vulnerability of this Nation to imported energy be printed in the RECORD. There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXECUTIVE SUMMARY

The Center for Strategic and International Studies (CSIS) launched the Strategic Energy Initiative (SEI) in mid-1998 on the premise that the benign global energy situation that had prevailed since the late 1980s masked two dangers.

First, it obscured significant geopolitical shifts both ongoing and forthcoming that could affect future global energy security, supply, and price.

Second, it led to complacency among policymakers and the public about the need to incorporate long-term global energy concerns into near-term foreign policy decisions.

By midyear 2000 the state of the world oil market had undergone considerable turbulence, marked by rapidly rising oil prices as oil-exporting countries were benefiting from staged reductions in production that had been initiated more than two years earlier. The delinquency of the oil-producing countries and demand was demonstrated once again.

Instead of dwelling on the oil market turbulence in 2000, however, this report assesses the international energy-supply-and-demand relationships likely to prevail in the first two decades of the twenty-first century, highlighting the different ways that geopolitical developments could affect global energy markets between 2000 and 2020.

In light of the world’s future energy needs, this report series also points out the contradictions inherent in the energy objectives and foreign policies pursued by the United States and other Western governments. Finally, the report offers policy considerations that, if implemented, could help ensure that energy supplies are adequate to meet projected worldwide demand, are not excessively vulnerable to major interruptions, and are produced in ways that minimize damage to the environment.

It may appear that parts of this assessment are unduly pessimistic, that positive factors have been ignored. These SEI assessments do stress prospects for instability and for interference in energy supplies, but only to alert policymakers about the fragility of reliability and the need for new policies.

ENERGY OUTLOOK TO 2020

During the next 20 years, providing there is no extended global economic dislocation, energy demand is projected to expand more than 50 percent. This growth will be unevenly distributed, with demand increasing in the industrialized world by some 25 percent, while more than doubling, from a much lower base, in the developing world, with Asia accounting for the bulk of this increase. At some point during this period, the developing world will begin to consume more energy than the developed world. Energy supply will need to be expanded substantially to meet this demand growth. Although the Persian Gulf will remain the major oil supplier, all producing countries must contribute to supply to the extent they can.

Central to the geopolitics of energy during 2000-2020 is the fact that the world will be met in essentially the same ways as it was met at the end of the twentieth century. Fossil fuels will provide the bulk of global energy consumption, rising marginally from an 86 percent share in 2000 to an 88 percent share in 2020. Although oil will dominate global energy use and coal will retain its central role in electricity generation, natural gas use will increase noticeably. Indeed the relative contributions of oil and coal to world energy consumption will actually decrease.

There is absolute no scientific evidence to suggest we cannot do it right.

Finally, do we really care where our energy be printed in the RECORD.

Asian dependence on Persian Gulf oil will rise significantly, and the resulting necessity for longer tanker journeys will put more oil at risk in the international sea lanes. European dependence on Persian Gulf oil will remain significant.

The European need for natural gas will be covered by a handful of suppliers. Russia being the most significant, which underscores a worrisome dependence.

Net oil imports will continue their steady growth.

Anticipated growth in the use of natural gas—in considerable part engendered as a fuel for electric power—raises a new series of geopolitical issues, leading to new political alignments.

Electricity will continue to be the most rapidly growing sectorally; developing economies in Asia and in Central and South America will show the greatest
increase in consumption. The choice of primary fuel used to supply power plants will have important effects on the environment.

Technological change and improvements in energy efficiency have made their mark on energy supply-and-demand balances. Future energy supply and demand must reflect not only a continuation of these successes but an acceleration wherever possible.

**POLICY CONTRADICTIONS AND CONSIDERATIONS**

How Might Geopolitics Affect Energy?

There are five main ways in which energy may affect geopolitics.

1. **Swings in energy demand.** A dramatic decline in global energy consumption, brought about by economic recession, could trigger instability that would lead to a reversion toward power politics. Furthermore, continuing economic growth, accompanied by rising energy demand, would place more pressure on the world's producers.

2. **Swings in energy supply.** Just as demand is vulnerable to sharp shifts up or down, so is supply. If discovery and development of new reserves of oil and other energy resources match demand growth, an acceptable balance between supply and demand can be maintained. But a number of factors must be satisfied if supply growth is to be encouraged, including an attractive host-country investment climate and the opportunity for exports that cover a substantial portion of the growing output. In the meantime, political events and logistical interdictions can interfere with supply.

3. **Energy efficiency.** The growing impact of nonstate actors. The potential for armed conflict in energy-producing regions must be taken into account. For example, in the late twentieth century, as a result, a weakening of U.S. alliance relationships in Europe, the Persian Gulf, or Asia could have major impacts on the stability of energy supplies. Concerns over the proliferation of mass destruction (WMD) and the desire to ensure energy security. U.S. action to assist energy exporters in the Persian Gulf in ways that would be of concern to the United States and its allies.

4. **Energy and regional integration.** The growing impact of nonstate actors. The interplay of geopolitics and energy early in the twenty-first century is at the root of an array of complex policy challenges that governments around the world must now confront. The three interlocking policy challenges faced by producers, by consumers, and by economy can be recognized:

   - Energy security. The world will have to live with the inherent limitations of the sanctions.

   - Energy and the environment. Environmental concerns will have an increasingly important impact on energy decisionmaking by governments, by producers, and by consumers in the next decades. Should governments pursue aggressive strategies for reducing carbon emissions, a new political fault line could emerge between developed and developing countries.

   - Policy considerations: Encourage energy-producing countries to open their energy sectors to foreign investors and to ensure that the coverage of sanctions is as targeted as possible.

   - Oil and gas exports. The Caspian region and Central Asia hold the prospect of becoming a valuable additional source of energy supply. Even as the U.S. government works to maintain a secure and stable environment in the region, it will be important to ensure that world markets are open to Caspian oil and gas.

   - Policy consideration: Do not obstruct the development of energy-producing countries that ultimately offer the world a diverse and economically attractive set of options for transporting oil and gas to foreign markets, especially those in Asia and the Caspian Sea.

   - Policy consideration: Against the value of engagement and dialogue. When the use of sanctions is deemed advisable in the support of international interests, ensure that the coverage of sanctions is as targeted as possible. Unilateral sanctions are not an effective policy tool.

   - A similar contradiction exists in U.S. policy toward the Caspian region and Central Asia, where the United States is committed to containing the new energy states but where contrasting U.S. policies toward Iran, Turkey, and Russia are likely to influence, rightly or wrongly, the construction of commercially viable pipelines for the export of Caspian oil and gas. A policy approach that ties exports primarily to one pipeline route, with the goal of tying Russia and Iran as transit states—before the political and economic viability of that route is known may undercut the pace of energy development in both producing states and potential transit states.
global economy, it is vital that the United States and other Western governments place diplomatic relations, trade policies, and foreign assistance programs with each of these countries at or near the top of policy priorities.

It is in the self-interest of the United States and other Western governments to support emerging energy oil importers—-as it diversifies its sources of and forms of imported energy and encourage China to not rely excessively on the Persian Gulf. Investing developing countries infrastructure to support oil and gas imports from Russia and Central Asia and also for transit outward to other countries in the Far East. Collaborative cross-national energy infrastructure projects can play an important role in lessening the risks of future conflict over energy resources. However, such energy linkages may not always be in the best political interests of the United States.

Energy Reliability

In the early decades of the twenty-first century, because burgeoning energy demand must be met largely by a small number of oil and gas suppliers and because supply routes are lengthening, the risk posed by supply interruptions will be greater than it was at the end of the twentieth century.

Military conflict will remain a threat to most energy-producing regions, particularly in the Middle East where almost two-thirds of the resources are located. In addition, domestic turmoil within the key energy-producing countries constitutes another threat to reliability of energy supplies. At least 10 of the 14 top oil-exporting countries run the risk of domestic instability in the near to middle term. The United States should retain as far as possible its ability to defend international energy supplies and international sea lanes. At a time when the administration faces myriad competing demands for military and peacekeeping intervention in this mission should be considered a strategic priority and may call for greater emphasis on, and increased investment in, appropriate military capabilities.

Policy consideration: The United States should retain as far as possible its ability to defend open access to energy supplies and international sea lanes. Some observers are concerned that the United States may seek relief from its self-imposed commitment to defend open access to energy supplies and international sea lanes. At a time when the administration faces myriad competing demands for military and peacekeeping intervention in this mission should be considered a strategic priority and may call for greater emphasis on, and increased investment in, appropriate military capabilities.

Policy consideration: The United States should consider the United States' interests in ensuring that the United States is able to maintain access to energy supplies and international sea lanes.

Energy and the Environment

Energy production and use have become linked to environmental concerns. Air pollution, oil spills, and their impact on habitats are among the many challenges confronting government and the energy industry. However, the energy industry's primary source of international friction may revolve around the issue of protecting the environment, as sharply demonstrated by the contentious debate over the cost and benefits of the Kyoto Protocol.

The United States is unlikely to ratify the Kyoto Protocol in its present form. Clearly, global climate change can potentially have major implications for the economies of the industrialized world and for the world as a whole. The United States is a major emitter of greenhouse gases, and its failure to participate in the international effort to address climate change could undermine the effectiveness of the global response to this issue.

By 2020, energy consumption by the developing countries of the world is expected to exceed energy consumption by the developed countries. This may hold particular implications for developing countries. The technology required to mitigate the effects of climate change, as sharply demonstrated by the contentious debate over the cost and benefits of the Kyoto Protocol.

Policy consideration: Governments should be prepared to shoulder a greater share of the financial cost of protecting energy supply, including sea-lane protection.

Policy consideration: U.S. allies in Europe and Asia should be prepared to shoulder a greater share of the financial cost of protecting energy supply, including sea-lane protection.

Policy consideration: The influence of nongovernmental organizations (NGOs) on public and private energy-
related policy decisions is perceived to be expanding.

Projected energy consumption in developing countries will begin to exceed that of developed nations. In most developing nations, energy policies are driven by political, economic, and environmental considerations.

The growth of information technology and use of the Internet dramatically change the way business is conducted, and this change carries with it a new set of vulnerabilities. The prospects of cyberterrorist attacks on energy infrastructure are very real; such attacks may be the greatest threat to supply during the years under review.

Global warming is attracting growing attention, and that attention will likely shape debate on future energy policies; it is hoped that debate will reflect sound science and factual analysis.

Security of Supply

If U.S. military power is committed to a limited but extended protection effort in Northeast Asia, the capacity to respond to a crisis like that of 1990 in the Persian Gulf will be severely limited. The United States will need to rebalance its security relations.

Policy Contradictions

The greater need for oil in the future is at odds with current sanctions on oil exporters Libya, Iraq, and Iran.

The United States deals with energy policy in domestic terms, not international terms: U.S. energy policy is therefore at odds with globalization.

The ACTING PRESIDENT pro tem. Under the previous order, the time until 1 p.m. shall be under the control of the distinguished Senator from Wyoming.

Mr. THOMAS. Mr. President, we have 5 minutes remaining in our time; is that correct?

The ACTING PRESIDENT pro tem. The Senator is correct.

Mr. THOMAS. I thank the chairman of the Energy Committee, the Senator from Alaska, for the work he has done on the energy problem. Clearly, we have one; there is no question. The question is, How do we best resolve it?

We are in desperate need of a national energy policy. We have not had one for a number of years. We need to have a plan with respect to domestic production—how much we want to let ourselves become dependent on OPEC and other such issues. It seems there are a number of issues about which the chairman has talked.

We need to talk about diversity. We have all kinds of things we can go on: We can go on oil, on gas, on coal—which is one of our largest reserves. We need to make it more clean. Of course, we can do that. We can take another look at our nuclear plants and again at our storage problems. It is one of the cleanest sources we have. Hydro needs to be maintained and perhaps improved. We need to go to renewables, where we can use wind and sunlight and some of the other natural sources.

I will always remember listening to someone back in Casper, WY, a number of years ago, saying we have never run out of a source of fuel; what we have done is found something that worked a little better and ran another time. We need to continue research to find ways to do that.

We need to have access to public lands. That doesn’t mean for a minute we are not going to take care of those public lands and preserve the resources and the environment. But we can do both. We have done that in Wyoming for a number of years. We have been very active in energy production, and at the same time we have been able to preserve the lands. That is not the choice, either preserve it or ruin it. That is not the choice we have.

We also need to do some more research on clean coal, one of our best energy sources. I was just in Wyoming talking to some folks who indicated we need to find ways to get easements and move energy. If it is in the form of electricity, it has to be moved by wholesale transmission. We need a nationwide grid to do that, particularly if we are going to deregulate the transmission and the generation side, which we are planning to do.

We have to have gas pipelines. California has become the great example. They wanted to have more power. Their demand increased and production went down. Then they said: We will deregulate. So they deregulated the wholesale market, put a cap on resale cost. Those things clearly don’t work.

We have to have some incentives to produce—tax incentives, probably, for low-production wells.

We need to eliminate the boom-and-bust factor so small towns are not living high one day and in debt the next.

Finally, we need to take a look at conservation, of course. You and I need to decide how we can use less of that energy and still maintain our kind of economy and way of life.

I again thank the chairman of the Energy Committee for all he is doing and urge him to continue so we can get the right direction for this country in order to have the energy we need and save our national resources as well. I am persuaded we can do both.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tem. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. LINCOLN). Without objection, it is so ordered.

CONCLUSION OF MORNING

The PRESIDING OFFICER. Morning business is closed.

BIPARTISAN CAMPAIGN REFORM

ACT OF 2001

The PRESIDING OFFICER. Under the previous order, S. 27 is discharged from the Committee on Rules and Administration, and the clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 27) to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

The Senate proceeded to consider the bill.

Mr. MCCONNELL. Madam President, I ask unanimous consent the time between 1 and 3:15 p.m. today be equally divided for debate only between the chair and the ranking member. Further ask unanimous consent that at 3:15 today I be recognized to offer an amendment.

Mr. MCCONNELL. Madam President, reserving the right to object—I will not object—that would not in any way preclude Members from coming down for opening statements. We want to make sure everyone can make their opening statements. I know there are a lot of Members who would like to make opening statements on the bill.

Mr. MCCONNELL. Madam President, I believe that is what the time is for. I concur with the Senator from Arizona.

Mr. McCAIN. There may be more than 2 hours, and Members may come down afterwards since some Members are coming back late this afternoon. I would like to make that clear.

Mr. DODD. Madam President, reserving the right to object—I will not object—I urge Members who have opening statements to make their statements to come to the floor between now and 3:15.

Obviously, later in the day during consideration of amendments Members can make whatever statements they wish. But to have some coherency to the remarks, this would be the appropriate time to do so. We urge Members to come to the floor.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Madam President, reserving the right to object, I am wondering if anyone knows that there is going to be a vote this afternoon. That was talked about last week.

Mr. MCCONNELL. Madam President, it is my understanding that there was a plan to have a vote at 6:15.

The PRESIDING OFFICER. Is there objection to any of the requests? Without objection, it is so ordered.

The Senator from Kentucky.

Mr. MCCONNELL. Madam President, we are in business for opening statements, if anyone would like to proceed. The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. FEINGOLD. Thank you, Madam President.

Mr. DODD. Madam President, I yield 30 minutes to the distinguished Senator from Wisconsin, Mr. FEINGOLD.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Thank you, Madam President.

Mr. MCCONNELL. Madam President, may I say to my distinguished colleague, my statement would be 5 minutes long.

Mr. FEINGOLD. As always, I defer to my commander on this, the senior Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Madam President, I thank my friend, Senator FEINGOLD, for his partnership and for his friendship.

Today we begin the first open Senate debate in many years on whether or
not we should substantially reform our campaign finance laws. I want to thank Senators LOTT and DASCHLE for their steadfast support, and for proving to be far more than mere advocates of our legislation for their steadfast support, and for proving to be far more than mere advocates of our legislation for their steadfast support, and for proving to be far more than mere advocates of our legislation for their steadfast support, and for proving to be far more than mere advocates of our legislation for their steadfast support, and for proving to be far more than mere advocates of our legislation.
Mr. DODD. Madam President, today the Senate begins debate on a defining issue in American politics—the question of whether unlimited, unregulated contributions to political campaigns are forwarding democracy or undermining it.

In this Senator's mind, the answer to that question is quite clear: no democracy can thrive—if indeed survive—if it is awash in massive quantities of money that threatens to drown out the voice of the average voter of average means; money that creates the appearance that a wealthy few have a disproportionate say over public policy; and money that places excessive demands on the time of candidates—time they and the voters believe is better spent discussing and debating the issues of the day.

The McCain-Feingold legislation before the Senate today is a good first step toward reform of a campaign system that is broken, plain and simple. I, for one, would like to have public financing of our Federal Campaigns. I would like to see free or reduced-rate TV and radio time for candidates during the peak of the campaign season. I would like for any negative ad to display the face and voice of the candidate on whose behalf that ad is aired.

The McCain-Feingold legislation is not as comprehensive as some of us would prefer. But it does address two of the most pressing deficiencies in our system of campaign finance: Undisclosed soft money contributions, and sham issue ads.

I have consistently supported this legislation. Today I call on my colleagues—both the majority and minority of the Senate—block further consideration of the issue.

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This bill accomplishes critically important goals. It closes the most serious loopholes in our current campaign finance system. The bill shuts down the system of unlimited, unregulated, and undisclosed soft money; bans direct or indirect contributions from foreign nationals; requires disclosure of electioneering communications masquerading as issue ads; and prohibits fund-raising by federal officials on Federal property.

There are those of my colleagues who would argue that when it comes to political campaigns, money is speech and speech should be unlimited. Let me be clear—I cannot agree more that political speech should be unlimited. The free flow of information and ideas is the hallmark of a democracy. But to equate speech with money is not only a false equation, it is also a dangerous one to our democracy.

What we are discussing today is that special interest soft money contributions are paid for overwhelmingly by a few wealthy individuals or groups or foreign nationals or anonymous groups or by undisclosed contributors, the speech is neither free nor democratic. It is encumbered by the unknown special interests who have paid for it. And it minimizes or excludes the speech of those who lack substantial resources to counter it.

This special interest speech—paid for with unlimited, undisclosed soft money—creates, at a minimum, the appearance of undue influence, if not an unspoken quid pro quo. And the very appearance of undue influence, if not an unspoken quid pro quo by the contributor, does anyone seriously believe that corporations and associations contribute millions of dollars in soft money just because they are good citizens and want to encourage free speech? Let us be serious.

It cannot be argued that such special interest soft money contributions were made to promote political speech and the interests who have paid for it. And it minimizes or excludes the speech of those who lack substantial resources to counter it. This special interest speech—paid for with unlimited, undisclosed soft money—creates, at a minimum, the appearance of undue influence, if not an implied quid pro quo by the contributor.

Let me put that in perspective for my colleagues. The average expenditures necessary for a winning Senate candidate from $800,000 in 1976 to over $7 million in the 1999-2000 election cycle. At that amount, the average Senate candidate would have to raise the equivalent of $3,000 per day, seven days a week, for the entire six-year Senate term. That is how campaigns are run.

It is past time to restore sanity, and accountability, to our system of financing elections.

I welcome this debate and look forward to amendments offered to both improve the McCain-Feingold legislation and restore the integrity of the manner in which we finance elections. This debate is one of the most significant and important ones we will have, not only in the life of Congress but at any time in recent memory. I welcome the debate and look forward to the arguments.

How much time have we consumed of that 30 minutes? The PRESIDING OFFICER. The Senator has consumed 7 minutes.

Mr. DODD. I will withhold my time. Does the Senator want 7 minutes?

The PRESIDING OFFICER. The Senator has consumed 7 minutes.

Mr. FEINGOLD. How much time remains?

The PRESIDING OFFICER. There are 43 minutes of time.

Mr. DODD. I yield 30 minutes to the Senator from Wisconsin and yield time to the Senator from Arizona. I am told the Senator from Arizona used about 15 minutes of that. I presumed—

The PRESIDING OFFICER. Six minutes.

Mr. FEINGOLD. Madam President, I will yield back my time to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. I yield. In 1986 I was elected to the Senate. I can remember during the last week or 2, maybe 3 weeks of that campaign. I woke up one morning to learn that all over the State of Nevada there were signs placed by my opponent—4-by-8 signs. I thought, how foolish for him to be spending these dollars on this—money for signs. It had to cost tens of thousands of dollars to put those signs all over Nevada.

I little did I realize this was the beginning, from my perspective, of the loosening of campaign laws, because I learned that if you looked at these signs, they were paid for by the State Republican Party—thousands and thousands of dollars spent by the State Republican Party which benefited my opponent. Had my opponent had to pay for those out of the money he raised, he could not have afforded it.

I filed a complaint with the Federal Election Commission, and many months later, saying it was OK. That was confirmed sometime later by the U.S. Supreme Court, saying there is, in effect, unlimited money that can be spent by State parties.

As we know, these issue advocacy ads all over the country have become part of the way it is done in America today. That is how campaigns are run.

The State of Nevada then was a very small State, with about a million people. I got up on the Senate floor in 1987 and talked about what happened to me and how it is in the future. I could not believe we would not change the law, and we have not changed the law. It has gotten worse every year. I have been through two re-election cycles, and it has gotten worse. In 1998, Nevada was a State with fewer than 2 million people—about a million and a half people. In that race, my good friend John Ensign and I spent over $20 million—$4 million with campaign money and $6 million issue advocacy ads by the State Republican Party and the Republican Party—

A State as small as Nevada. $20 million. And that doesn’t count the independent expenditures that were made. Nevada, probably over $1 million was spent in the race between Senator Reid and Senator Ensign. Neither spent more money than the other. We both spent a lot of money. The independent expenditures have run against John Ensign and we were run against me.

I say to my friend from Wisconsin, I am depending on him to try to work through all this. I think I understand the law, what is being done. He has been a master at that, and I appreciate very much what he has done. I have said to my staff and to my friends, it can’t be any worse than what it is now. We need to change the law. How in the world can you spend in the State of Nevada $20 million? People don’t like to acknowledge it, but, of course, we are involved in raising the soft money, going to people and asking them for these huge amounts of money.

So I commend and applaud my friend from Wisconsin. I admire his tenacity, his courage, and I admire his ability to persevere through big obstacles. But I also hope that we as Democrats have struck him through thick and thin. I was here when Senator Byrd—I think we hold some of the record for attempts to invoke cloture; seven times on campaign finance. When Senator Byrd was leader, he tried to do that. It is also nice to see some Republicans coming aboard now. Previously, it was basically Senator McCain alone on campaign finance reform; now there are others.

I know there is a lot of talk about, do we really need campaign finance reform. I want this record to pronounce to everyone within the sound of my voice, things cannot be worse than what they are now. We need to get back to the way it used to be, where you had to raise money from individuals and they would give you money unsolicited. This present system is not working, in my opinion, and it should be changed.

Mr. DODD. How much time remains?

The PRESIDING OFFICER. The Senator from Connecticut has 2 minutes of the original 30.

Mr. DODD. I yield to the Senator from Wisconsin.

Mr. FEINGOLD. Madam President, in the beginning, when nobody jumped for the ball, I was happy to commence my talk. But it is music to my ears to hear leaders such as Senators Dodd and Reid come out here in the beginning of the debate and talk about the importance of this issue. They have been with us every step of the way,
As Senator Reid has indicated, I am extremely grateful for the kind of support we have had. This is when we need it, more than any other time. This is a great way to begin. I will give my longer statement later. It is better to get it out of the way.

Mr. Dodd, Madam President, I commend Russ Feingold and John McCain. This has been a long battle, going back years now. Nobody is claiming perfection. We are sailing into uncharted waters when we engage in the reform of our campaign financing system, but I underscore what Senator Reid of Nebraska has said: A system that has over $23 million spent to win the votes of a State with a million and a half people is a system totally out of control.

These two Senators have taken the lead. I think America appreciates what they are trying to do. Our fervent hope is that before this debate concludes, either later this week or at the end of next week, for the first time in more than a quarter century, will have substantially reformed a political process—not made it perfect. We should not hold that out as a possibility, but we can certainly make it better, and I think it is possible.

Mr. McConnell, Madam President, I assure my colleagues on the other side of this debate that we are not going to be too restrictive about time. There are more speakers on the other side, which is often the case in this debate. Make sure Senator Hagel gets the time he needs. I will take the time I need. Unless someone else in our general orbit here on this subject comes, we will try to accommodate people on the other side. I know Senator Cochran is looking for an opportunity to speak. I hope we can accommodate him out of my time.

Having said that, Madam President, how much does the Senator from Nebraska desire?

Mr. Hagel, I would like 15 minutes.

Mr. McConnell, I yield 15 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. Hagel, Madam President, the Senate is about to engage in an open and full debate on campaign finance reform. It is time for this debate.

My friends, John McCain and Russ Feingold, deserve much credit for getting it in it presently. They have been passionate in their efforts to reform the system. If the Senate passes a campaign finance reform bill—and I believe we can—it will be largely due to their efforts and leadership.

We have an opportunity to achieve something that is relevant and meaningful. My hope, my goal, for the outcome of these 2 weeks is to get a bipartisan bill approved by the Senate that brings reform to the system, is constitutional, and that President Bush will sign.

We have an opportunity to achieve something so relevant and meaningful. My hope, my goal, for the outcome of these 2 weeks is to get a bipartisan bill approved by the Senate that brings reform to the system, is constitutional, and that President Bush will sign.

We need to be careful not to abridge the rights of Americans to participate in our political system and have their voices heard. Political parties, individuals, and organizations that represent millions of Americans all have rights guaranteed by the First Amendment to the Constitution. These rights guarantee that they can express themselves politically and participate in the electoral process.

Democracy is messy. We are going to hear a lot more about how messy and unfair democracy is over the next 2 weeks. Our system is imperfect, but our Government works because of the rights of all people to participate in this democracy. We should take steps to encourage greater participation in the process. We should expand the ability of the American people to get involved. We must not weaken political parties or other important political institutions of our system.

Over the next 2 weeks, we will need to guard against situations that will have unintended consequences. The answer to reforming our system is not to shut people out or diminish the abilities of our institutions and individuals to participate in the process. We must also guard against impugning each other’s motives on the floor of the Senate. No Senator has the high moral ground over any other Senator. There are and will be differences on campaign finance reform. Let us debate these differences without assigning sinister motives to our opponents. The Nation and the world will be peeking in through their television windows to witness this Senate debate. Will they see dignity, respect for others’ opinions, honest discourse, and elevated debate? I believe so. Our country deserves it, and we owe it to our fellow citizens.

This is a historic moment for the Senate to rise above the shrill political rhetoric of our time. How do we best change our campaign finance system? For me, the core of campaign finance reform must begin with accountability, openness, and disclosure. These are the essential components of reform.

I start from a fundamental premise that the problem in the system is not the political party; the problem is not the candidate’s campaign; the problem is the unaccountable, unlimited outside moneys and influence that flows into our system. This problem is either little or no disclosure. That is the core of the issue we will debate beginning today.

The political parties are and have been a vital component for our system, especially for a challenger to take on a well-financed, entrenched incumbent. Who else is there to support that challenger, be that challenger a Democrat or a Republican, unless the senator is self-financed? Is it the party who activates the volunteer and gets out the vote and helps give the challenger a forum to get his or her message out. That is good. That is helpful. That is important to democracy.

Political parties encourage participation. They promote participation. They are about participation. They educate the public. They ensure the viability of all in the system. Their activities are open, accountable, and disclosed.

Mr. McConnell. I yield.

Mr. Hagel, Mr. McConnell, Mr. Dodd, Mr. Feingold, John McCain, and many others have been involved in this for more than a quarter century. They are trying to do. Our fervent hope is that before this debate concludes, either later this week or at the end of next week, for the first time in more than a quarter century, will have substantially reformed a political process—not made it perfect. We should not hold that out as a possibility, but we can certainly make it better, and I think it is possible.

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Over the next 2 weeks, we will need to guard against situations that will have unintended consequences. The answer to reforming our system is not to shut people out or diminish the abilities of our institutions and individuals to participate in the process. We must also guard against impugning each other’s motives on the floor of the Senate. No Senator has the high moral ground over any other Senator. There are and will be differences on campaign finance reform. Let us debate these differences without assigning sinister motives to our opponents. The Nation and the world will be peeking in through their television windows to witness this Senate debate. Will they see dignity, respect for others’ opinions, honest discourse, and elevated debate? I believe so. Our country deserves it, and we owe it to our fellow citizens.

This is a historic moment for the Senate to rise above the shrill political rhetoric of our time. How do we best change our campaign finance system? For me, the core of campaign finance reform must begin with accountability, openness, and disclosure. These are the essential components of reform.

I start from a fundamental premise that the problem in the system is not the political party; the problem is not the candidate’s campaign; the problem is the unaccountable, unlimited outside moneys and influence that flows into our system. This problem is either little or no disclosure. That is the core of the issue we will debate beginning today.

The political parties are and have been a vital component for our system, especially for a challenger to take on a well-financed, entrenched incumbent. Who else is there to support that challenger, be that challenger a Democrat or a Republican, unless the senator is self-financed? Is it the party who activates the volunteer and gets out the vote and helps give the challenger a forum to get his or her message out. That is good. That is helpful. That is important to democracy.
control candidates will have over their own campaigns. Voters can hold candidates responsible for their conduct. They cannot hold outside groups and wealthy individuals accountable.

I believe the greatest threat to our political system is the operation outside the bounds of openness and accountability, not those who operate inside the bounds of accountability and reportability and disclosure.

In recent years, we have seen an explosion of multimillion-dollar advertising buys by outside organizations. These groups and wealthy individuals come into an election, spend unlimited sums of money, and leave without anyone knowing who they are or how much they spent or why. They can have a major impact on the outcome of any election—any election—especially in small States.

Do they have a right to participate? Of course they have a right to participate, but their actions must be disclosed.

In the fall of 1999, I introduced a bipartisan bill to reform our campaign finance system. I reintroduced that legislation the following year with several Democratic colleagues. I was pleased to report that more and more of my colleagues have come on as co-sponsors to this legislation in the last couple of days.

The components of our legislation will genuinely improve the way Federal campaigns are financed. We increase disclosure requirements for candidates, parties, independent groups, and individuals. The current system provides no disclosure for the activities of outside groups or individuals. We ensure that the name of the individual, the organization, its officers, addresses, phone numbers, and the amount of money spent are all made public immediately.

Our legislation limits soft money contributions to political parties to $60,000 per year. That is far below the unlimited millions—unlimited millions—that are now pouring into the system with no accountability, no disclosure. This is a significant limit.

The Wall Street Journal reported Friday that two-thirds of all the soft money contributions in the last election cycle came from those who gave more than the $120,000 limit for a 2-year cycle, which is part of our bill. Two-thirds of the soft money contributors in the last cycle would have been subject to this cap. I say to those who question the cap, whether it is relevant, important, or whether it does anything. I think the Wall Street Journal numbers address that issue. We limit soft money but do not ban it so political parties are not disadvantaged by wealthy individuals and independent organizations. This is particularly important because it is the State of California in politics, State party organizations that have the responsibility of getting out the vote, of organizing the vote, the registration drives, the grassroots participation. In the process, that very vitality is the core of representative government. Why cut that off, that accountable disclosure of money, to make the system more a part of every citizen’s opportunity to participate?

As originally provided for in the Federal Election Campaign Act of 1974, soft money, non-Federal money, in fact, can be used by political parties for various activities over the course of the entire election cycle. Is it not true that this is a new phenomenon. If this is new, why, since 1974, has the Federal Election Commission had 7 pages of regulations as to how to use soft money? It isn’t new. These are legitimate, worthy, and important functions of the political parties and should not be inhibited by a total ban on soft money. I do believe we need to tighten the definition on the uses of soft money. This should be part of any reform bill we pass, and we can do that and should.

Today’s hard money contribution limits are worth less than one-third of their value when the 1974 act was passed. This funding goes directly to candidates’ campaigns and political parties’ apparatus, a non-accountable method of political financing. Every dollar contributed, every dollar spent, is fully reported to the Federal Election Commission. Everybody knows who is making that contribution. The individual limit of $1,000 in 1974 equates to $3,300 today. Our bill raises this limit to $3,000 and indexes it for inflation. By doing this, we ensure individuals have the same ability to participate as they were granted in the groundbreaking 1974 legislation.

Furthermore, we believe our campaign finance reform proposals would all pass constitutional muster. This is a legitimate concern—whether, in fact, we pass a bill that will withstand appeal to the Supreme Court. By doing this, we ensure individuals have the same ability to participate as they were granted in the groundbreaking 1974 legislation.

I believe the constitutional issues are as critical as any we will debate over the next 2 weeks. The Constitution is the foundational document of our Nation. The rights guaranteed within that document cannot be dismissed because of political expediency, regardless of how noble the motive of the reform effort. Our system is imperfect, but we expect our political leaders to improve it, but certainly we can expect a higher standard from our political leaders than we have seen in the past. Personal accountability is the core of political accountability.

Congress has a genuine opportunity to work with President Bush to achieve real reform. The President supports campaign finance reform. I look forward to working with all my colleagues during this debate to get a constitutional, bipartisan campaign finance reform. Mr. President, when the President will sign, that will genuinely reform our system. That would be an achievement of which we all would be proud.
where they are unimpeded, unfettered by anything such as the First Amendment we have, the Japanese Government limits the number of days you can campaign, the number of speeches you can give, the types of places you can speak, the number of handbills you can print, the number of megaphones you can buy—one. Each candidate is entitled to one megaphone.

This was passed in order to deal with money politics and the money they wanted to get into politics, and they have. In the desire to get money out of politics, it was designed to improve the image of the politicians and the Parliament, so they squeezed all the money out of politics, got them down to one megaphone per candidate, and “no confidence” in the legislators has risen to 70 percent and voter turnout has continued to decline.

There are other democratic allies around the world who have been into this issue much further than we have gone, at least so far, and they have all had the same results: Squeeze the money out of politics, limit the voices, and you are there and you are in. This is the belief—cynicism and turn out are not related to this issue at all; they are related to whether or not there is a belief that the legislators are tackling the real challenges confronting the country.

The original recipe of McCain-Feingold, back in 1995 and 1997, tried to do a lot of what politics wants to do, and they have done in Japan: It had candidate spending limits; it had a ban on PACs—eliminate them; it had a bundling ban; it had a party soft money ban and an all-encompassing restriction on citizens groups who engaged in issue advocacy and independent expenditures. In other words, the entire universe of political participation—with, of course, the glaring exception of the media, where the media is considered to get unlimited and unaccountable funding. This was passed in order to deal with the single biggest contributor to explana­tion or defeat of a candidate. Yet no­body on the so-called “reform side” is trying to deal with the single biggest contributor to election or defeat of a candidate. Yet nobody on the so-called “reform side” is trying to deal with the issue groups who irritate us. But just imagine what we would like to control these campaigns. But under the First Amendment, the campaign is not ours to control, and be it ever so irritating when some group who hates us comes in and starts talking about us in proximity to an election, that doesn’t mean we can legislate it out of existence through our votes in this Chamber.

It irritates us, but there are a lot of things we like to do, that we would like to do, that we would like to control these campaigns. But under the First Amendment, the campaign is not ours to control, and be it ever so irritating when some group who hates us comes in and starts talking about us in proximity to an election, that doesn’t mean we can legislate it out of existence through our votes in this Chamber.

The PAC and bundling bans were jet­issoned from McCain-Feingold as well, and I must say I am happy about that. I don’t think there is anything wrong with the bundling ban, whether or not to pool their resources and support candidates of their choice. That is constitutional as apple pie and ought not to be restricted.

A few months later, in 1998, the citi­zens groups restrictions were altered and a new—and, I would argue, also un­constitutional—bright line was drawn by the Snowe-Jeffords provision where an unconstitutionally vague line had been drawn in the original McCain-Feingold. But that did not get anywhere either, inviting vehement opposition from citizens groups who would be affected, and disdained and ridiculed by con­stitutional experts who would litigate our campaigns. We don’t like it. We are not fortunate enough to be wealthy, have to spend—well, there is not enough time. There is not enough time. If you are running in California and you do not have the advantage of being already well known or extraordinarily rich, 2 years is not long enough to pool together enough resources at $1,000 a contributor to be competitive.

One of the single biggest problems we have is the failure to index the hard money contribution limit back in the 1970s. Why do you think parties are relying more on soft money? Because there isn’t enough hard money. Nobody capped the cost of the media at the 1974 level. I hear that some of the proponents of McCain-Feingold oppose a nonseverability clause, and I really find that mystifying. If they are so confident that the bill is constitu­tional, what is wrong with a nonsever­ability clause to guarantee that the bill either rises or falls together? They should have had this clause back in 1974. What happened then was legislation passed that had spending limits for campaigns and con­tribution limits for individuals. The spending limits got struck down, the contribution limits got upheld, it was not indexed, and we have today a situa­tion in which we are left with $1,000 contribution limits set at a time when a Mustang cost $2,700 and candidates, particularly in big States, who were not fortunate enough to be wealthy, have to spend—well, there is not enough time. There is not enough time.

It irritates us, but there are a lot of things we like to do, that we would like to do, that we would like to control these campaigns. But under the First Amendment, the campaign is not ours to control, and be it ever so irritating when some group who hates us comes in and starts talking about us in proximity to an election, that doesn’t mean we can legis­late it out of existence through our votes in this Chamber.

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Since that time, those advocating re­form have been in retreat in one form or another. Having first waved the white flag on these previously non­negotiable candidate spending limits, we stand here today with a very dif­ferent bill, and I too say, a brighter outlook than 8 years ago at the outset of the last big floor engage­ment, when we had lots and lots of amendments.

Eight years ago, campaign spending limits were on the verge of enactment and would have extinguished any chance of sustained success of my party in congressional elections. We Republicans have to spend millions every election just to get a fair shake and counter the liberal bias so preva­lent in the news and entertainment media.

So candidate spending limits mer­cifully are off the table. That means if we were even enacted, such restric­tions already having been struck down in Federal court over 20 times.

Let me just take a moment on this. None of us really likes the degree to which outside groups get involved in our campaigns, or think like it. We would like to control these campaigns. But under the First Amendment, the campaign is not ours to control, and be it ever so irritating when some group who hates us comes in and starts talking about us in proximity to an election, that doesn’t mean we can legislate it out of existence through our votes in this Chamber.

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The only way to get at the core of this problem, if Senators believe the influence of money and politics is so pernicious, is to change the First Amendment.

You have to go right to the core of the problem. If you care for Senator Hollings of South Carolina, Mr. FrITZ HOLLINGS, will offer that amendment at some point as he has periodically over the years. He deserves a lot of credit for the nub of the problem. The nub of the problem is you can't do most of these things as long as the First Amendment remains as it is.

So Senator Hollings, at some point, I think, under the consent agreement, will probably at the end of the debate offer a constitutional amendment so the Federal and all 50 State governments can have the unfettered latitude to regulate, restrict, and even prohibit any expenditures "by, in support of, or in opposition to a candidate for public office." It would carve and etch out the first time since the founding of our country and the passage of the Bill of Rights, giving to the government at the Federal and State level the ability to control political speech in this country. It is worth noting that would also apply to the media.

One of the world’s largest defense contractors, such as General Electric, could even be prohibited from owning America’s No. 1 television station such as NBC. or anchoring such as Tom Brokaw, could even be prohibited from mentioning a candidate’s name within 60 days of an election. This is a serious proposal. This will be offered once again on the floor of the Senate.

Barring such a wholesale repeal of constitutional freedom, a lot of what we are going to be doing in the next 2 weeks will probably fall well short of the constitutional mark. But I hope that Senators will take their responsibilities seriously and not just vote for anything, hoping the courts will at some point save us from ourselves.

A good deal of this is not in question. Virtually the exact language of the so-called Snowe-Jeffords language designed to make it more difficult for outside groups to criticize any of us in proximity to an election has been struck down within the last year and a half. That is pretty clear evidence that this particular language is not constitutional Amendment, for the first time since the founding of our country and the passage of the Bill of Rights, giving to the government at the Federal and State level the ability to control political speech in this country. It is worth noting that would also apply to the media.

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Republican remedy for the diseases most in- cident to republican government.” He said: “Extend the sphere, and you take in a greater variety of parties and interests; you make it less probable that a public interest will be frustrated by a permanent majority. It will be more difficult for a faction to make a regular party of its influence.” Madison, who understood the necessity of the distribution of power, the “first object of government” is “protection of different and unequal facili- ties of acquiring property.”

The indistinguishability that is characteristic of Madisonian democracy often is not a pretty spectacle. However, Madison’s doctrine to judge parties by esthetic standards. He saw reality steadily and saw it whole, and in Federalist 51 he said people could trace “through the whole system of human affairs” the “policy of sup- plying by opposite and rival interests, the defect of better motives.”

Madison’s 250th birthday comes at a mei- ancholy moment. A banal and middle-headed populism—call it McCainsm—is fueling an assault this month on Madison’s First Amendment freedoms of speech and associa- tion. The McCainsm aims to crimp the activities of “campaign-finance reform” are wag- ing against the Madisonian pluralism of American politics.

McCainsm aims to crimp the activities of political parties by banning contributions of “soft money”—contributions and expendi- tures—implicates “the most fundamental First Amendment activities,” and therefore government bears a heavy burden of demon- strating a compelling need to limit those activities. The only such justification the court considers sufficient is the need to pre- vent corruption or the appearance thereof. The Supreme Court remedied the case for the lower courts to consider whether those “hard dollar” limits themselves are con- stitutional at all. In response, the district court ruled against the FEC, saying the ads were “independent expenditures” and thus not subject to the “hard dollar” limits.

The Supreme Court found that the FEC’s mission is to regulate campaign-finance reform. Republican leaders have been dead-set on deregulation to the point that it intersects with the very framework of representative gov- ernment.” He said: “The FEC seeks to broaden the definition of cor- ruption to the point that it interferes with the very framework of representative gov- ernment.”

The FEC is a bureaucracy. Bureaucracies have a metabolic urge to maximize their missions. The FEC’s mission is to regulate campaign-finance reform. Its primary mission, stated in his oath of office, is dif- ferent—to defend the Constitution. Bush by his congeniality efforts, but he will serve neither by continuing them until it costs him his job. It will cost him that if he signs McCain-Feingold.

Genius, said Bismarck, involves knowing when to stop. He had in mind waging war, but the same is true of waging niceness.
Jennings Bryan. In 1974 Congress enacted spending limits (declared unconstitutional by the Supreme Court in 1976) for House races of $75,000 (about $230,000 in today’s dollars), challenges must spend to threaten an incumbent. The Senate limits, also declared unconstitutional, would have protected incumbents. The limits started at $250 for a federal race in a state’s population, and included not just the candidate’s direct spending but any spending “relative to a clearly identified candidate.” Arguments for more regulation of political speech are fueled by hyperbole about supposed “torrents” of money pouring into politics. Such hyperbole has been heard ever since Washington, D.C., demanded, first for the Virginia House of Burgesses in 1757, spending 39 pounds for 160 gallons of rum and other beverages for the 39 eligible voters—more than a quart of drink, at a cost of (in today’s currency) $2, per voter. However, since the Voting Rights Act (1965) and the 26th Amendment (1971) greatly expanded the electorate, spending per eligi-
bale voter in congressional races, in today’s dollars, has hovered in a range from approxi-
mately $2.50 to $3.50 per eligible voter, inch-
ing up with highly competitive elections of 1994 and 1996 and reaching approxi-
mately $4 in the competitive elections of 1996—a bit more than the cost of one video rental.

If spending in the two-year 1999-2000 cycle for all candidates for all offices—federal, state, and local—did not engage in independent expenditure support (a term critics call it) total of $3 billion, that was $15 per eligible voter. And $3 billion—$2 billion less than Americans spend annually on Hal-
loween makes five-one-hundreds of one percent of GDP.

So writes Bradley Smith in “Unfree Speech: The Folly of Campaign Finance Re-
form” (Brookings Institution Press), where surely will be this year’s most important book on governance, Smith, now serving on the Federal Election Commission, warns that if reformers succeed in getting the First Amendment thought of as a mere “loophole” in a comprehensive regime of speech ration-
ing, they will have legitimized perpetual tin-
pering with the regulation of political speech for partisan advantage after every election cycle has been analyzed.

It is arguable whether, or how much, the First Amendment’s analogy—Would the First Amendment’s core concerns is political speech. And the Supreme Court says, incontro-
vertibly, that in modern society, political speech depends on political spending.

As to whether limits on political spending abridge freedom of political speech, consider the Supreme Court’s analogy. Would the First Amendment’s analogy—Would the constitution attack to travel be abridged if govern-
ment limited everyone to spending only enough for one tank of gasoline? Or would the First Amendment’s core concerns is political speech. And the Supreme Court says, incontro-
vertibly, that in modern society, political speech depends on political spending.

The First Amendment—Freedom—is the right reason for opposing “reform” designed to regulate, and diminish, political disc-
ourse. But if only tactical considerations can convince them, the move to abrogate the right, the wrong reason will be welcome.

[From the Washington Post, Mar. 11, 2001] FENDING OFF THE SPEECH POLICE (By George F. Will)

The coming debate on campaign finance “reforms” that would vastly expand govern-
ment regulation of political communication will measure just how much jeopardy the First Amendment, and hence political free-
dom, faces. Recent evidence is ominous.

In 1997, 38 senators voted to amend the First Amendment to allow government to impose “reasonable” restrictions on political speech. Dick Gephardt has said, “What we have is two issues in direct conflict: freedom of speech and our desire for healthy campaigns in a healthy democracy.”

Bill Bradley has proposed suppressing issue advocacy by imposing a 100 percent tax on such ads. John McCain has said he wishes he could constitutionally ban negative ads—ads critical of politicians.

The basis of political-speech regulation is the First Federal Election Campaign Act. Bradley Smith, a member of the Federal Election Commission and author of “Unfree Speech: The Folly of Campaign Finance Re-
form,” calls the act “one of the most radical laws ever passed in the United States.” Be-
cause of it, for the first time Americans were required to register with the government be-
fore spending money to disseminate critici-
mal speech. And the Supreme Court says, incon-
veniently, that the regulation of political speech should be upheld.

Liberals eager for more regulation of politi-
cal speech should note the pedigree of their project. The act’s first enforcement action came in 1972, when a group then organized as the National Committee for Impeachment paid $17,850 to run a New York Times ad criticizing President Nixon. His Justice De-
partment immediately stopped the com-
mittee from further spending to disseminate its beliefs. Justice said the committee had not properly registered with the government and the committee’s activities might “af-
flect” the 1972 election, so it was barred from spending more than $1,000 to communicate its opinions. As of today, in a federal appellate court, the committee de-
feated the FEC, but only because the com-
mittee had not engaged in “express advo-
cacy” by explicitly urging people to vote for or against a specific candidate.

In 1976 some citizens formed the Central Long Island Tax Reform Immediately Com-
mitee, which spent $15 to distribute the voting record of a congressman who dis-
pleased them. Two years later this dissemi-
nation of truthful information brought a suit from the Federal Election Commission’s speech police, who said the committee’s speech was illegal because the committee had not properly registered and re-
porting the campaign act requires of those who engage in independent expenditure sup-
porting or opposing a candidate. The com-
mittee won its case in federal district court, but only because it had not engaged in “express advocacy.”

In 1986, with impeachement approaching, Leo Smith, a Connecticut voter, designed a Web site urging support for Clinton and de-
feat of Rep. Nancy Johnson (R-Conn.) When the campaign of of Johnson opponent con-
tacted Smith, worried that his site put him and their campaign in violation of the act, he sought a commission advisory opinion.

Alarmed at not being able to ex-
pended money to create this particular Web site, the Commission said the law’s defini-
tion of a political expenditure includes a gift of “gallogol”. The commission noted that his site was “administered and maintained” by his personal computer, which cost money. And that the “domain transferred in 1996 for $100 for two years and for $35 a year there-
after. And “costs associated with the cre-
ation and maintenance are con-
sidered an expenditure because the site uses the words that bring on the speech police—it “expressly advocates” the election of one candidate.”

The commission advised Smith that if his site really was independent, he would be “re-
quired to file reports with the commission if the total value of your expenditures exceeds $250 during 1996.” If his activity were not truly independent, his “expenditures” would have to be reported as a contribu-
tion to Johnson’s opponent. Smith ignored the commission, which, perhaps too busy pol-
icizing speech elsewhere, let him get away with what he did.

Today Internet pornography is protected from regulation, but not Internet political speech. And campaign finance “reformers” would have us believe much, much more because, they say, there is “too much money in politics.”

Actually, too much money that could and should be spent on protecting speech, complying with the act’s speech regulations. To cover compliance costs, the Bush and Gore cam-
paigns combined raised more than $15 mill-
ion. And Tommy Davis notes that because of the law’s ambiguities and the commis-
sion’s vast discretion, litigation has become a campaign weapon: Candidates file charges to embarrass—“Congress and half taken to expend resources fending off the speech pol-
icy. Consider this legacy of “reforms” during this month’s debate about adding to them.

[From the Washington Post, Mar. 18, 2001] SKIRTING WHAT THE FIRST AMENDMENT SAYS (By George F. Will)

With this week’s beginning of Senate de-
bate on campaign finance reform, the parties will reach the most pivotal moment in the his-
tory of American freedom since the civil rights revolution 3½ decades ago. The debate concerns John McCain’s plan to broaden gov-
ernment limitations on political spending in order to intensify government supervision of political speech, which depends on that spending. McCain’s attempt to expand government abridgement of the First Amendment’s core concerns is the context of a rapidly mul-
tilded and rationalized world. The question is whether the First Amendment protection of political speech.

In recent years law school journals have fea-
tured many professors’ theories about why the First Amendment—“Congress shall make no law . . . abriding the freedom of speech”—should not be read as a limit on government. Rather, they argue, the amendment empowers the state to protect its interests—government to regulate, limit and even “enhance” political speech.

Consider a symposium new book, “Be-
published,” by University of Chicago law professor Cass Sunstein, whose ingenuity de-
serves better employment. He vigorously at-
tacks a nonexistent problem, to which he pro-
poses a solution that is only, but very, useful as an illustration of the hostility that a portion of the professorate has toward the plain text of the First Amendment.

The supposed problem that Sunstein wants government to address is a maldistribution of information and opinion. He begins with a paradox that a better-informed citizen needs the glue of a certain level of common experi-
ences. Then he postulates a problem. It is that the very richness of today’s information and opinion environment—the Internet, cable, etc.—allows people to design a person-
ized menu of communications, deciding what they want to encounter and what they want to filter out of “a communications uni-
verse of their own choosing.”

Sunstein says unplanned, unanticipated, even—perhaps especially—unwanted encoun-
ters are “central to democracy.” They help us understand one another and prevent so-
cial fragmentation and the extremism that ferments in closed cohorts of the like-minded—men of the same skin color, the same social background, with “tongues of their own voices.” Sunstein worries especially that the Internet, by bestowing on individuals the
power to customize what they encounter, enables people to bypass “general interest intermediaries” such as newspapers and magazines.

Not long ago, intellectuals worried that mass media where homogenizing American culture into uniform blandness. Now Sunstein recognizes new technologies following people to “wall themselves off” from differences of opinion, forming isolated enclaves.

What makes Sunstein’s book pertinent to campaign finance reformers’ current assaults on the First Amendment is not the plausibility of his diagnosis—who in copolitics knows America for sufficiently exposed to differences? But note the audacity of his prescription. He would have government use various measures—from content regulations and requirements for broadcasters to mandatory links connecting Web sites to others promoting different views—to manage the scarce commodity of the public’s attention. Government, he thinks, should actively “promote exposure to materials that people would not have chosen in advance.

Now, never mind the many practical problems implicit in Sunstein’s theory, such as how government will decide which views are insufficiently noticed, and how government will “‘promulgate’ (Sunstein’s word) public interest in them. But mind this:

Sunstein is an ardent campaign finance reformer, and this is why he recommends government management of the information system. He thinks the First Amendment mandates this. He does not read the amendments as a “shall not” stipulation that prescribes government interference with individual rights. Rather, he reads it as a mandate for active government management of the public’s attention. Government, he thinks, must “promote” exposure to materials that people would not have chosen in advance.

To Sunstein, and to many similar academic advocates of speech-management through campaign finance reform, what is important about the First Amendment is not its text but the “values” they say the amendment represents. They say those values—vigoroust democracy, political heterodoxy—require that the amendment’s text be ignored as anachronism that modern life (the Internet, the costs of campaigning in the age of broadcast advertising, etc.) has rendered inimical to the amendment’s values.

Politicians who, in the name of campaign finance reform, call for increased government supervision of political communication are not motivated by such recondite reasoning. They simply want to tilt the system even more in favor of the collection of incumbents, or of their ideological interests, or of their ability to control their campaigns by controlling the ability of others to intervene in the political discourse.

However, campaign finance reformers depend on academic theories about why it is acceptable to act as though the First Amendment does not mean what it says.

Mr. McCONNELL. Let me just wrap it up for the time being by imagining for a moment the world envisioned by this legislation before us. That is a world where political parties are attacked by their own, beaten down, stripped of their constitutional rights, and ultimately left as shells of their former selves.

In his book “The Party’s Just Begun,” University of Virginia political science professor Larry Sabato writes a section titled “A World Without Parties” where he imagines a world with weak and feebile parties. The national parties today are stronger than they have ever been in my lifetime. They may have been stronger in the previous century—the 19th century—but they are now stronger than they have ever been and more useful for services provided to candidates up and down the Federal scale than ever. What would politics look like without a strong two-party system? Surely even the parties’ severest critics would agree that our politics would be poorer from any further weakening of the party system. We have only to look at what has happened to weakening of the one entity out there that will always support challengers, no matter what.

Boy, I tell you, there are some advantages to incumbency. PACs tend to like you. Individual contributors tend to like you. You get more coverage. On whom can a challenger depend? Either his own pocketbook, if he is lucky enough to have a lot of money, or the political party, the one entity there to go to bat for a challenger in American political competition.

So I welcome the debate. This is going to be an interesting debate. None of us has any real idea how it is going to end, which makes this a good deal different from the discussions we have had in recent years. We are going to have a lot of fine amendments. The first amendment will be offered by Senator DOMENICI of New Mexico. It will be laid down at 3:15. I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDENT proclaims, Senator from Connecticut.

Mr. DODD. I see my colleague from Mississippi here.

How much time does the distinguished Senator need? Five minutes?

Mr. COCHRAN. Mr. President, 5 minutes would be ample.

Mr. DODD. I yield 5 minutes to the distinguished Senator from Mississippi.

The PRESIDENT proclaims, Senator from Mississippi.

Mr. COCHRAN. Mr. President, first of all, I commend the principal sponsors of this bill, the distinguished Senator from Arizona, Mr. MCCAIN, and the distinguished Senator from Wisconsin, Mr. FEINGOLD, for their leadership and for their perseverance.

This day has been a long time coming, but the time has finally come for campaign finance reform. I am pleased to be a cosponsor of this bill as it was reintroduced at the beginning of this Congress in January. I am convinced it is time for the Senate to take action to reform the way Federal election campaigns are financed which are, in effect, overwhelmingly dominated by the huge amounts of unregulated and undisclosed money being spent by organizations, unions, corporations, and wealthy individuals to influence the outcome of Federal election campaigns.

I say to my colleagues, that is not a pretty picture. That is not a pretty picture. Remember, as I conclude my remarks here for the moment, that this bill before us at the beginning of this debate targets political parties. It purports to do a few other things, but no one serious among the scholars believe that that can be done or, if we did, it would be upheld in court.

So make no mistake about it, this targets the political parties. Of what value is it, in our American political system, to weaken the one entity out there that will always support challengers, no matter what?
outcome of political campaigns and how they are spending their money to do so. I also commend the Senate leaders, Mr. LOTT and Mr. DASCHLE, for scheduling the debate on this bill so the Senate has time to work its will. Amendments can be offered by any Senator, with ample time for debate and consideration of any suggestions for changing or improving this legislation.

This bill, S. 27, in my view, strikes the right balance that we are trying to accomplish. I may support some of the amendments that are offered. As a matter of fact, I am hopeful that I will be able to offer an amendment of my own to strengthen the disclosure requirements. I think it will improve the bill as it now stands. I think the public has a right to know clearly who is spending the money that affects the outcome of Federal elections and how they are spending it.

We are overwhelmed by the total number of television ads and other mailings that are sent out during a political campaign these days in House races, in Senate races, and even the Presidential election this past year. Voters have to be confused. Who is running the ads? It says “The Good Government Committee,” but who is that? Or it says something else that sounds really good, as though they are on the side of right and just thinking about what is right. So they put the ad up that suggests or insinuates that one or the other of the candidates isn’t on the right track, either on one subject or just generally speaking, it isn’t good for the State or the district or the country, or suggests that there may be something in the background of the candidate that is suspicious, that needs to be looked at very carefully. The insinuation, the misleading tone, the negative aspect of political campaigns is fueled by the huge judgment of the almost imperceptible amount of influence being brought to bear on these campaigns by who knows what source, who knows who is behind the spending.

I am hopeful we will work hard to get a bill reported out and passed by the Senate. We have a wonderful opportunity to do so. The time to act is now. Some of the raising and spending of the money, I am prepared to suggest, looks more like money laundering operations than aboveboard political campaigns that would reflect credit on the political system of our country. That needs to be changed. This is the vehicle to do it.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I again thank the Senator from Connecticut. I am extremely pleased to come to the floor today to begin the debate on Senator Cochran’s bill. Of course, the Senator from Arizona has been the original inspiration on this issue and the person who was able to make this issue and this bill, in particular, something of national importance that actually was important in the discussions in the Presidential debates last year. I have greatly enjoyed these 6 years of working with JOHN MCCAIN on this issue.

Let me also say, if I could have picked one Senator from the other side to sort of put us over the top, to change the dynamic of this, somebody whom I have always respected, although we have rarely agreed on the issues, that person is Senator THAD COCHRAN of Mississippi. His credibility and the respect of the Members of this body for him are so profound that when he became a major sponsor of this bill, it made it possible for us to have this debate. It is because he joined us, and I am grateful.

This debate has been a long time coming. It is our first truly open debate on campaign finance reform in many years. We have been limited to a few days of speeches or parliamentary wrangling and a cloture vote or two. Instead, we are going to have an open amending process, a vigorous debate, and, in the end, I think we can pass a bill for which this body and the country can be proud.

We have a rare opportunity before us. We also face a great test. The opportunity is clear. In the next few weeks we can take a major step toward closing the loopholes that have made a mockery of our campaign financing laws. We have the power to close these loopholes, and we have the duty to close them. The American people will be watching this floor over the coming days and weeks. They want to know whether we can finally do what is right. Can we finally close the door on the soft money system that leaves us so vulnerable to the appearance of corruption?

The Senator from Kentucky was happy that so far in the debate the word “corruption” had not been mentioned. I am sorry, but the choice of the word “corruption” is not my choice. It is the standard that the U.S. Supreme Court has said we have to deal with if we are going to legislate in this area. It is not JOHN MCCAIN’s word. It is not my word. It is the word of the Court. The Court said, in Nixon v. Shrink Missouri Government PAC:

Buckley demonstrates that the dangers of large, corporate campaigns and the suspicion that large contributions are corrupt are neither novel nor implausible. The opinion noted that the deeply disturbing examples surrounding television ads on the one hand demonstrated that the problem of corruption is not an illusory one.
know, the rise of soft money has been so recent and so rapid that one has to sort of take a minute and look at how rapidly it has risen.

When I came to the Senate in 1992, I wasn’t even sure what soft money was, or at least I didn’t know exactly what that could be done with it. After a tough race against a very well-financed incumbent who spent twice as much as I did, I was mostly concerned when I came here with the difficulties of people running for office who were not wealthy. I was still concerned about that and still think we need to address it, and we should get on to it after we do this.

My commitment to campaign finance reform was forged from that experience. Since I came to this distinguished institution, soft money has exploded, with far-reaching consequences for our elections and the functioning of the Congress.

As the chart I have shows, soft money first arrived on the scene of our national elections in the 1980 elections after a 1978 FEC ruling opened the door for parties to accept contributions from corporations and unions who are barred from contributing to Federal elections. The ruling intended foreign donations to be used for what the FEC termed “party building,” meaning purposes that are unrelated to influencing Federal elections. The best available estimate is that the parties raised under $20 million in soft money in the 1980 cycle, and it didn’t change much in 1984. The loophole remained pretty much dormant.

In 1988, soft money nearly doubled when both parties began raising $100,000 contributions for both the Bush and the Dukakis campaigns, an amount that was unheard of prior to 1988. By the 1992 election, the year I was elected to this body, soft money fundraising by the major parties had doubled to nearly $500 million. Of course, the $86 million raised in 1992 was a lot of money. It was nearly as much as the $110 million that the two Presidential candidates were given in 1992 in public financing from the U.S. Treasury. There was growing concern about how the money was spent.

Despite the FEC’s decision that soft money could be used for activities such as “get out the vote” and voter registration campaigns without violating the Federal election law’s prohibition on corporate and union contributions in connection with Federal elections, the parties sent much of their soft money to be spent in States where there were key contested Senate races. Still, even in 1992, soft money was far from the central issue in our debate over campaign finance reform in 1993 and 1994. And then in 1995, when Senator MCCAIN and I first introduced the Bipartisan Campaign Reform Act, our bill included a ban on soft money, but it wasn’t even close to being the most controversial provision of our bill, and actually nobody paid any attention to it in 1995.

Then, as we all know, came the 1996 election and the enormous explosion of soft money fueled by the parties’ decision to use the money on phony issue ads in support of their Presidential candidates. Looking at the chart, the total soft money fundraising skyrocketed as a result of that judgment. When the parties had raised $262 million in soft money in 1996, that was appropriately considered an incredible sum. Nearly 800 people who gave $200,000 or more in soft money in that cycle, 1996.

But today, if you can believe it, only 4 years later, 1996 looks like a small-time operation compared to the 2000 cycle. I think they are still counting from the year 2000. But I believe we know now that the parties raised $847.5 million in soft money in the year 2000. That dwarfs the amount raised in 1992, and it comes close to doubling the $1 billion raised Wall Street Journal reported the other day—and I say this in response to the comments of the Senator from Kentucky about the average soft money contribution being $500—that nearly two-thirds of that—nearly $500 million was given by just 800 donors who gave at least $120,000 each. That is a far cry from an average of $500—800 donors, giving an average of $120,000 each. That is what was the core of the McCain-Feingold case.

This chart shows the huge growth of the megadonors over time. It is exponential. A select group of wealthy people, unions, and corporations whom the parties have come to depend on for these huge sums of money is who is dominating this fundraising.

That brings us right back to the item we have to talk about—even though some don’t want us to talk about it—and that is the perception of corruption. People are uncomfortable with the parties, the parties are uncomfortable with the FEC, the public is uncomfortable with the parties and, by extension, all of us, relying on a concentrated group of wealthy donors for a significant part of our fundraising. The American people are troubled by that, and so are many of us.

Recently, our colleague, Senator MILLER from Georgia, wrote an opinion piece in the Washington Post on his deep misgivings about the current fundraising system. He wrote that he doesn’t sleep as easy as he used to when campaigns weren’t defined by how money can be raised and spent.

I would like to read a passage from Senator MILLER’s op-ed, where he describes what fundraising is like today:

“I locked myself in a room with an aide, a telephone, and a list of potential contributors. The aide would get the “mark” on the phone, then hand me a card with the spouse’s name, the contributor’s main interest, and a statement that I’d remind the agribusinessman that I was on the Agriculture Committee; I’d remind the banker I was on the Banking Committee.

And then I’d have the plea for soft money—that armpit of today’s fundraising. I’d always mention some local project I got—ten—or hoped to get—for the person I was talking to. Most large contributors understand only two things: what you can do for them and what you can do to them. I always left that road like a cheap prostitute who’d had a busy day.

These are Senator MILLER’s words. Those are powerful words, and they are hard to stomach. I deeply admire the Senator from Georgia for many reasons, but especially for being willing to believe what we all know to be true. Many colleagues have told me privately they are uncomfortable with this system. One Senator told me here on the floor that he felt like taking a shower after he had made a call for a $500,000 contribution.

We have Senators who can’t sleep; we have Senators who feel they have to take a shower after doing fundraising calls. We have a pretty bizarre system. This system cheapens all of us. The people in this body are good people; I know that. They care deeply for this country. We have to get rid of this soft money system before it drives the good people away from public service and drives the public even further away from its elected leaders.

Senator MILLER also wrote in his op-ed that while he supports McCain-Feingold, he thinks it is not enough, that it is only a step in the right direction. I agree. After we pass this bill, I hope we will do more, and I look forward to working with the Senator from Georgia and others on broader reform.

Senator MILLER’s words are brutally honest. I think when we are honest with ourselves about what our system has become, real change can’t be far behind. Money should not define this democracy, and it doesn’t have to. We don’t have to pick up the paper and read headlines such as “Influence Market: Industries that Backed Bush Are Now Seeking Return On Investment.”

The headline ran in The Wall Street Journal. I think we all know what that means, and so does everyone else.

The assumption that we can be bought, or that the President of the United States can be bought, has completely permeated our culture. The lead of this article reads:

“For the businesses that invested more money than ever before in George W. Bush’s costly campaign for the Presidency, the results have already begun to drive the public even further away from its elected leaders.”

This is a new administration. It is a new start. And then you have to read that, which is quite an accusation. But it is one that people don’t hesitate to make these days. Whether we are Democrat or Republican, we should all be saddened by such an accusation, perhaps angry at it, but we can’t ignore it or just blame the media for it.

There is an appearance problem here, Mr. President. No one can deny that. But the newspapers didn’t create it; we did. I am reminded what the great Senator Robert La Follette of the State of Wisconsin, said in response to those who argued that the press of his day, the early 1900s, was spreading...
hysteria about the power of the railroad over the Congress. He said:

It does not lie in the power of any or all of the magazines of the country or of the press, great as it is, to destroy, without justification, the confidence of the people in the American Congress. It rests solely with the United States Senate to fix and maintain its own reputation for fidelity to the public trust. It will be judged by the record. It can not repel the attack upon its exalted position and the glorious heritage of its traditions. It is worse than folly to feel, or to profess to feel, with respect to public judgment. If public confidence is wanting in Congress, it is not of hasty growth, but it is the product of “jaundiced journalism.” It is the result of years of disappointment and defeat.

Mr. President, I think Senator La Follette had it right. It is not the media or the public’s fault if what goes on here looks corrupt, it is our fault. We have to do something about it. In the next 2 weeks, we have a golden opportunity to do something about it.

Here’s another recent example of the public’s distrust of our work: “Tougher Bankruptcy Laws—Compliments of MBNA?” That headline appeared in Business Week magazine on February 20th. The cover story stated, “BMNA is about to hit pay dirt. New bankruptcy legislation is on a fast track. Judiciary panels in the House and Senate have held perforary hearings, and a bill could be on the House and Senate floors as early as late February.” Again, the implication is clear. It is widely assumed that the credit card issuers called the shots on the substance of the bankruptcy bill that we passed last Thursday. Isn’t it troubling that people are so quick to assume the worst about the work we do here on this floor? I think it’s a real crisis of confidence in our system. And that’s why we are taking up this bill—because we have to repair some of that public perception ofcorruption in our system. We aren’t going to get a pass from the American people on this one, and we don’t deserve one.

The appearance of corruption is rampant in our system, and it touches virtually every issue that comes before us. That’s why I have Called the Bankroll on this floor 30 times in less than two years. Because I think it’s important for us to acknowledge that millions of dollars are given in an attempt to influence what we do. Because that’s why we have Bankroll here—and I don’t think anyone would even try to dispute that. I won’t detail every bankroll on this floor 30 times in less than two years. Because I think it’s important for us to acknowledge that millions of dollars are given in an attempt to influence what we do. Because that’s why we have Bankroll here—and I don’t think anyone would even try to dispute that. I won’t detail every bankroll on this floor 30 times in less than two years.

Our legislation shuts off the soft money loophole, this body has faltered. If we can’t pass this bill, history will remember that this Senate faced a great test, and we failed. That the people accused us of corruption, and in our failure to pass a real reform bill, we confirmed their worst fear.

The bill before us today offers a different path. If we can support the modest reforms in this bill, we can show the public that we understand that the current system doesn’t do our democracy justice. This is just a modest bill. It is not sweeping. It is not comprehensive reform. It only seeks to address the biggest loopholes in our system.

The soft money ban is the centerpiece of this bill. Our legislation shuts down the soft money system, prohibiting all soft money contributions to the national political parties from corporations, labor unions, and wealthy individuals. State parties that are permitted under State law to accept these unregulated contributions would be prohibited from spending them on activities relating to Federal elections. And Federal candidates and office holders would be prohibited from raising soft money under our bill. That’s a very significant provision because the fact that we in the Congress are doing the asking is what gives this system an air of extortion, as well as bribery.

Mr. President, I hope and I hope each of us will. There are 100 experts on campaign finance law in this body. We’ve all lived under this system. We
Mrs. BOXER. How much time do you have?
Mr. DODD. There are 13 minutes remaining. Why not take 6 of it.
Mrs. BOXER. That would be great.
Mr. President, I wish to start out by thanking Sens. S. FINK and P. FEINGOLD for their hard work on this very important piece of legislation. I know it is hard to challenge the status quo. I commend them both for their courage and their commitment to this cause. My own commitment goes back to my early days as a candidate for political office 25 years ago. I have supported such efforts to change our campaign finance system whenever I have gotten the opportunity. I thank my friends for getting us this opportunity. It wasn’t easy to do it. They worked hard and they got it.

When I ran for the Senate, I became even more of a rabid supporter of campaign finance reform, as I learned I had to raise $12 million at that time in 1992. After my second run for the Senate, in which I had to raise $20 million, I became so supportive of campaign finance reform that I am truly ready to clamp down on this obscene situation. Yes, if there are some unforeseen consequences, I am looking at how to fix it, but today we must support this change regarding soft money.

I want to give my colleagues some figures. For someone from California who does not have independent wealth, it costs about $5 million to get that second spot on prime time, it costs $50,000 to get one “Barbara Boxer for Senate” spot on TV. I always thought we owned the airwaves. Isn’t there a tie-in between what we do here and the broadcast industry. What a situation.

This version is not my favorite one, but it is the only game in town that does something about clamping down on the soft money abuses. Therefore, I will be supporting it.

I want to talk a minute about the broadcast industry. What a situation.

The eyes of the Nation are on this Chamber. Hundreds of 100 Senators can prove to the public that we are the Senate that the people want us to be. But the public’s patience is wearing very thin. We cannot pick up the phone to raise soft money with one hand, and cast our votes with the other for much longer. The harm to the reputation of the Congress is simply too great. If we fail to pass real reform, we choose soft money over the public trust. That’s a risk we cannot afford to take. We have a rare opportunity before us, and a great test. Let us seize the opportunity for reform, and meet the test before us with a firm commitment to restoring the public’s faith in us and the work we do. The public doubts whether we can do it, Mr. President, but I believe that we can, and I believe that we must.

I yield the floor.

Mr. DODD. How much time remains on the Senator from Connecticut.

The PRESIDING OFFICER. There are 13 minutes remaining.

Mr. DODD. Mr. President, the Senator from California requests how much time?
to the oil companies; reversal of his campaign pledge on CO2, carbon dioxide emissions, a payback to the coal industry; tax cuts aimed at the richest people—those are the only ones who make out on this one; they walk away and smile all the way to the bank—a payback to all groups.

His campaign finance position is a payback to all those folks. I hope we will support McCain-Feingold. I think it is worthy of passage.

I thank the Chair, and I thank Senator Dodd for the time.

Mr. DODD. Mr. President, I am happy to yield 3 minutes—5 minutes, whatever my colleague from Michigan——

Mr. LEVIN. Mr. President, 5 minutes if the Senator has it.

Mr. DODD. I yield 5 minutes to my colleague from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, first, I commend Senators McCain and Feingold for bringing us to this point, to this moment of truth. I also commend our leadership, both the majority leader and the Democratic leader and the chairman and ranking member of the Rules Committee, for helping to organize a time period which will allow us to have a free-wheeling and open debate.

This is finally the moment of truth on campaign finance reform. The next few weeks will help us determine whether we recapture the faith which is at the heart of our democracy or whether we let it again slip from our grasp.

Decades have transpired since our predecessors enacted the current campaign finance laws. It was not easy. It took a scandal of momentous proportions—the financial irregularities associated with the 1972 Presidential campaign—to bring Congress to action, but act it did.

Now it is our moment of truth, our moment to decide whether we rescue the law which our predecessors had the good and blistering courage to enact, or whether the moment is drowned in a sea of excuses.

Let's begin with some basic truths.

Truth No. 1: There are contribution limits embodied in our law, meaningful limits, and if the law were followed and interpreted as originally intended, we would not be here today. Let's look at those limits in the system which we put in place 25 years ago.

Individuals are not supposed to give more than $1,000 to a candidate per election, $5,000 to a political action committee, $20,000 a year to a national party committee, $25,000 total in any 1 year for all contributions combined.

Corporate PACs are not supposed to give more than $5,000 per candidate.

Corporations and unions are prohibited from contributing anything to a candidate except through carefully prescribed political action committees. The limit of a corporate or union PAC contribution is $5,000 per candidate.

Presidential campaigns are supposed to be financed just with public funds.

Those are the laws on the books today.

Truth No. 2: The Supreme Court has upheld the legality and constitutionality of those contribution limits in a number of cases, including Buckley v. Valeo and Nixon v. Missouri Government Shrink PAC. In those cases, the Supreme Court held that limits on contributions do not violate free speech.

Truth No. 3: The soft money loophole and soft money loophole has effectively destroyed those contribution limits. The loophole is huge. Since you cannot give more than a limited amount to a candidate, give all the money you want to his or her party and, of course, the party turns around and spends that money helping the candidate win election. Soft money has blown the lid off the contribution limits of our campaign finance system. As many commentators, colleagues, and constituents have said, practically speaking, there are no limits.

The truth is, the public is offended by this spectacle of huge contributions, and well they should be, and we should be, too.

Just one reason why we should not enjoy the spectacle—and the public certainly does not—is that in order to get these huge contributions, access to us is openly and bluntly sold. We sell lunch or dinner with “the committee chairman of your choice” for $100,000. This is a bipartisan problem. Both parties do it.

From an RNC, 1997 annual gala: For $100,000, you get a luncheon with the Senate and House leadership and the Republican House and Senate committee chairman of your choice.

We sell access to insiders meetings, strategy sessions, participation in congressional advisory groups, or trade missions. The open solicitation of campaign contributions in exchange for access to people with the power to affect the life or livelihood of the person being solicited creates an appearance of impropriety or power.

From the Democratic National Committee, for $100,000, you get a meeting with the President, you go on a trade mission with leadership as they travel abroad to examine current and developing political and economic issues, and a whole lot of other benefits—large contributions in exchange for access.

The moment of truth is now. We must not let this moment pass without doing what we believe is right and necessary to restore public confidence in ways in which campaigns are financed and run.

I thank both Senators McCain and Feingold for their extraordinary courage, their determination, their grit. I thank also our leadership and the chairman and ranking member of the Rules Committee for helping to schedule this debate in a way in which I think we can resolve this festering problem.

The PRESIDING OFFICER (Ms. Reid). The Senator from Kentucky has 13 minutes.

Mr. McCONNELL. There are other speakers on the other side awaiting the arrival of Senator DOMENICI. I am happy to dole out some of my time.
This is the one chance we will have to do something about this system. It is the one chance remaining to try to make meaningful changes in the law. If it is not perfect, if there are unintended consequences, we can come back and arrange that automatically we are going to have some great conversion on the road to Damascus where all of a sudden the mass of the American voting public will collectively say, hallelujah, the system has been cleaned up and we can now all engage in the support of our candidates because McCain-Feingold is adopted. That is naive.

But I do believe the American public will respond favorably if this Senate in these next 2 weeks adopts the McCain-Feingold legislation and says: While we haven’t dramatically changed the system, we have improved it dramatically. That is my hope.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL, Senator DOMENICI is here. He will be recognized at 3:15 to lay down the first amendment.

I conclude the opening comments by saying, as I said before, McCain-Feingold will not take money out of politics; it will take the parties out of politics.

Having said that at the beginning of 2 weeks of a wild ride, it will be easier to predict who will win the NCAA tournament than how the bill will come out after 2 weeks of amendments. I think there is one prediction I can make fairly confidently. I think there will be an effort, hopefully not supported by a majority but an effort to water down and massaging of language to the point where they sign off on the Senate from Kentucky.

I yield to the floor.
The PRESIDING OFFICER. The clerk will report the amendment. The bill clerk reads as follows:

The Senator from New Mexico [Mr. DOMENICI] for himself and Mr. ENSSLING, proposes an amendment numbered 112.

Mr. DOMENICI. Madam President, I ask without the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To increase contribution limits in respect to an eligible candidate's use of personal wealth and limit time to use contributions to repay personal loans to campaigns)

On page 37, between lines 14 and 15, insert the following:

SEC. 305. USE OF PERSONAL WEALTH FOR CAMPAIGN PURPOSES.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following:

(1) REQUIRED DECLARATION.—

(A) IN GENERAL.—Not later than 15 days after the date a candidate for the office of Senator as required by paragraph (a) of subsection (c) of section 305, after declaring candidacy under Federal law, the candidate shall file with the Commission a declaration stating the candidate's intention to expend personal funds in connection with the candidate's election for office, in an aggregate amount equal to or greater than $500,000.

(B) PERSONAL FUNDS.—In this subsection, the term 'personal funds' means:

(i) funds of the candidate (including funds available to the candidate from obligations incurred by the candidate in connection with the candidate's campaign); and

(ii) funds of the candidate's spouse, a child, stepchild, parent, grandparent, brother, sister, half-brother, or half-sister of the candidate and the spouse of any such person, and a child, stepchild, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate's spouse and the spouse of such person.

(C) FORM OF STATEMENT.—The statement required by this subsection shall be in such form, and shall contain such information, as the Commission may, by regulation, require.

(2) INCREASED LIMITS.

(A) IN GENERAL.—Notwithstanding any other provision of law, in any election in which a candidate for the office of Senator declares an intention to expend more personal funds than the limit described in paragraph (1)(A), expends personal funds in excess of such limit, or fails to file the declaration required by this subsection, the increased contribution limits under subparagraph (B) shall apply to other eligible candidates in the same election.

(B) LIMITATION ON REPAYMENT OF PERSONAL LOANS.—Any candidate who incurs personal loans in connection with the candidate's campaign for election shall not repay (directly or indirectly), to the extent such loans exceed $250,000, such loans from any contributions made to such candidate or any authorized committee of such candidate after the date of such election.

(C) EFFECTIVE DATE.—An amendment made by subsection (a) shall apply with respect to loans made or incurred after the date of enactment of this Act.

Mr. DOMENICI. Madam President, I ask for the direction of the Majority Leader on the Domenici amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered.
of resources. I have been here a long time. I am not sure it is worth $20 million, in any event. Maybe when I first started, I would have been very excited about it. I still love it, but I just wonder if I would put up $20 million, or $30 million, or $40 million to beat my opponent who couldn’t come close to raising the money.

Let’s get down to what I am trying to do. What I am trying to do is leave that alone. I can’t change that. What I can say is that somebody who intends to do that and publicly disclose it at various intervals in the campaign. Then we start to raise the caps for the nonmillionaire candidate so that they have more latitude to raise money to compete with the person who is going to contribute millions of their own money.

Essentially, in that context, it is an equalizer amendment; it is a fair play amendment; it is a “let’s be considerate of a candidate who isn’t rich”—whatever you choose to call it.

I want to describe what I choose to do in this amendment.

First of all, the person who intends to spend large amounts of their own money—I want to say it again; Senator DOMENICI from New Mexico is not trying to stop that. I am fully aware that I couldn’t even if I wanted to. I do not know if I would if I could. But the U.S. Supreme Court said that is a freedom of speech issue with the person who can either borrow large amounts of money or who wants to spend large amounts of money.

What I say is they must declare the intent to spend more than a half million dollars within 15 days of being required to file a declaration of candidacy.

Over $500,000—let’s do that one first. Fifteen days, if you are going to spend $500,000—over $500,000—opponents, individual and PACs are increased threefold. If it is $500,000 of your own money, then that $1,000 contribution turns to $3,000 for the opponent. The PACs go from 5 to 15.

If you go beyond the $500,000, and you are going to spend $750,000, then everything is increased by five times. Those are the caps that currently operate. Instead of $1,000, it will be $5,000 per election, and the same on the PACs.

If you are going to do $1 million, then directly to bring your party coordinated expenditures limits are eliminated, as well as you eliminate the cap on individual contributions, and the cap stays at five times. It stays at five times at the highest category, but then the party contributions and what I call party coordinated expenditures which have caps on them are eliminated.

It has one other feature. I don’t really mean it for anybody in the past; I just want it to apply in the future. But you see, there is another practice that has come into play that I don’t think is fair. That is, you use your own money or you lend yourself money. Then, after you are elected, you go have a lot of fundraisers as an elected Senator, and you pay yourself back. Frankly, I don’t think you ought to do that. If you are going to spend $5 million and go out there and robustly tell everybody you are spending $5 million of your own money—$2 million of your own money—I guess we have somebody spend $40 million of their own money—you shouldn’t get elected and go out and have fundraisers to collect the money back once you have won the seat. You can’t say putting in such a huge amount of your own money.

This limits candidates who incur personal loans in connection with their campaign in excess of $250,000. They can do $250,000 and then reimburse themselves with fundraisers. But anything more than that, they cannot repay it by going out and having fundraisers once they are elected with their own money.

I don’t think the details are very important to this amount. I think if Senators see what I see, they are going to want to adopt this amendment. This whole debate is about what people perceive as too much money being put into campaigns at one level or another.

I am not sure I know what that is in terms of party participation. I am listening to the debate. I am complimentary Senator McCaIN and others who are working on the bill and those who are coming up with other amendments. But I think the amendment I have also addresses a growing issue that should be of great concern, whether it is a Republican, a Democrat, or a third-party candidate.

If you are going to run for the Senate, and if you are going to put huge amount of your own money into the campaign, it is patently unfair that your opponent would be limited to fundraising levels that are 26 years old or that would change, which is $100,000 per primary and $1,000 per general from your friends who want to help you.

Just think for a moment. If you are so fortunate to have somebody run against you with $20 million of their own money, just think of what is ahead of you—to go out and raise the money you need to run a fair campaign against $20 million and raise it $1 million at a time per election and a $5,000 limitation on PACs. It is patently wrong and unfair to.

If it is constitutional to fix it—and I believe this may be constitutional because, as a matter of fact, we are denying rights to the wealthy if they want to put in their money. But to the person who runs against them, we say we want to give you a chance to stay in the playing field by raising limits on how you can raise money and from whom.

I note my friend from Kentucky wanting to be recognized.

Mr. MCCONNELL. Mr. President, will the Senator yield for a question?

Mr. DOMENICI. I am pleased to yield.

Mr. MCCONNELL. The Senator has raised an extraordinarily important issue with regard to the dilemma that a modestly well-off candidate faces when running against someone of extraordinary wealth. I think he has come up with an amendment to bring some rationality to the debate.

I am also curious if the Senator has thought about another value: That there will be one or more amendments dealing with that 26-year-old hard money contribution limit of $2,700.

In the unknown candidate running in a State such as California against somebody who is either well known or well off. The Senator suggested it would be difficult to compete against such a person in New Mexico or Kentucky. I ask my friend whether he thinks there would be any chance in the world of a candidate running against a millionaire in a big State such as California.

Mr. DOMENICI. Frankly, it seems to me that we have some evidence of that, for there was a race out there—I am not using names of who did this but there was a very huge amount of money spent by a candidate. The candidate didn’t happen to win. But essentially it was an incredible time raising money to compete. It just turned out that there was something else happening in that election.

Given the money that people in California have who made these large fortunes, if one of them chooses to go in and put up really a big portion of their own money, an opponent at $1,000 per individual and per election and $5,000 in PAC money—essentially the major ways of raising money—I don’t see how they can compete.

Mr. MCCONNELL. Would the Senator from New Mexico agree, then, that failure to index the so-called hard money contribution limit back in the mid 1970s has completely distorted the playing field by raising limits on the single biggest problems we should try to remedy during this debate?

Mr. DOMENICI. There is no doubt in my mind that we ought to try to fix that. I, as one Senator, saw this issue that I am addressing arising in 1987. So I introduced a bill that we called the wealthy candidate bill. Frankly, we did not have a debate that looked like it was going to bring me just to keep introducing it every 2 years. One time, Senator Dole offered something very much similar. But the underlying bill never did proceed beyond the debate stage.

I want everybody to understand. I want to repeat, just in very simple terms, that I do not know whether a very wealthy candidate will be a great Senator, a good Senator, or not so good Senator. I do not know that. I am not trying to say because you have $10 million or $40 million to spend on your campaign, you should not run and use your own money—not at all. Nor am I suggesting that if you spend a huge
amount—$40 million—and win that you were the better or the lesser candidate.

I am merely saying, we established rules limiting what the opponent can spend. These are statutory rules that are 26 years old, coming out of Watergate. That is why the opponents of wealthy candidates do not comply with the law—if they do that, then it would seem to me you ought to amend the 26-year-old limitations, which are under attack here as being too low anyway. There are a number of amendments in the bill saying that number is too low.

Now, believe it or not, as of right now, those low numbers apply even to an opponent of somebody who will declare under this statute that they are going to spend $1 million of their own money. You have to limit that in this law. So with that, I do not know if we have any formal opposition on the floor. If we do, I certainly would be willing to exchange views with them. But from my standpoint, I think we ought to amend this amendment before the day is out and have done one piece of laudable work on the first day.

Mr. WELLSTONE addressed the Chair.

Mr. WELLSTONE. I need no more than 10 minutes.

Mr. FEINGOLD addressed the Chair.

Mr. FEINGOLD. Madam President, I yield such time as the Senator from Minnesota needs.

Mr. WELLSTONE. I need no more than 10 minutes.

Mr. FEINGOLD. I yield 10 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Actually, I would love to make a more general presentation about money and politics, but, I say to my good friend from New Mexico, I want to just start out with a few rather jarring statistics.

Do you know how many U.S. citizens contribute more than $200 to a race today? Four out of every 10,000. That is .004 percent. Do you know how many Americans give contributions of $1,000 or more? It is .011 percent. So it seems to me that what we have is a system where people think if you pay, you play; if you don’t pay, you don’t play.

My colleague comes on the floor with an amendment that says the way to deal with the problem of who are spending their own money to win elections or, as you see it, to help contribute to their winning, the way to solve the problem is not by taking the limits off of hard money contributions. By the way, there is going to be more and more of that done. Again, less than 1 percent of the population contributes $200 or more; and even less of the “less than 1 percent” contribute $1,000 because people do not have that money. People do not go to $500,000 barbecues and bring their own barbecues with their neighbors. People make $100 contributions to charities. They do not make these kinds of contributions.

What this amendment has done is simply added to the problem by saying now what we are going to have, through this amendment, is even more money put into politics by the very top of the population, be it wealthy people of financial interests on whom all of us are going to be more dependent. So now what we are going to have—and this is supposed to be the first amendment for reform: The people who have their own resources, millionaires, versus people who have access to millionaires and large financial interests. That is not the only choice. If we are serious about this, I will tell you how you can get around it. There are some great Senators who are independently wealthy. We all agree that is not the point we are making. And maybe there are some others who are not so great. That isn’t the point. The point is, if you want to deal with this problem, then you have a clean money election. People then agree on that. And then the public owns the elections.

If someone says they do not want to be bound by spending limits, they do not want to take part in clean money, clean elections, then you know the way it works. The Presiding Officer knows. She is from Maine. Then there is additional money that can go to candidates to make up for the advantage that those who are spending their own resources have to make it a level playing field. That additional money goes to the public. It still belongs to the people. And then the people who get elected belong to the people. And then the Capitol belongs to the people. And then the Government belongs to the people. And then people have more confidence in the political process. And people think they can be more involved. And little people, who do not have all the money, feel more important. And they are more important.

This amendment is not a great step forward. This is one big, huge, gigantic leap backward.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. McCONNELL. Madam President, I yield 10 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized for 10 minutes.

Mr. REID. Madam President, if the Senator will yield for a brief statement.

Mr. BENNETT. Sure.

Mr. REID. On our side, whatever time remains on behalf of Senator DASCHLE, I give that allotment of time to Senator FEINGOLD. He can allot the time on this amendment.

The PRESIDING OFFICER. The Senator from Utah is recognized for 10 minutes.

Mr. BENNETT. Thank you, Madam President.

I appreciate the opportunity to comment on this amendment. I believe I have some personal experience which I will share with the Senate. It has to do not with a general election but with a primary.

That is an issue that sometimes we forget because there are many States where the primary is the ultimate election—States that are overwhelmingly Democratic, such as the State of Massachusetts, and States that are overwhelmingly Republican, quite frankly, such as the State of Utah.

The real contest in 1992, when I ran for the Senate, was the primary, which I won about $1 million compared to the general election, which I won by 180,000 votes. Percentage-wise, I won the primary 51.5 to 48.5. I always add the half to make it sound as if it was a better victory than just 51-49. I won the general election by a 16-point gap.

So the primary was the big issue. I had to spend my own money in that primary race. I remember a conversation with the then-chairman of the Senatorial campaign committee, Mr. STROM THURMOND of Texas, who talked with me with the following story about the perils of spending your own money. He talked about the two fellows in Texas—I don’t remember their names so I will call them Joe and Bill—who both put their own money into the race. At the end, on election night, when Joe had won, Bill said to him: Joe, if I had known you were going to spend $4 million of your own money, I would never have gotten in the race, to which Joe said: Bill, if I had known I was going to make $4 million of my own money, I would never have gotten into the race.

You get caught up in these things and the money starts coming. And if
you have it, you just keep saying, well, another $100,000, another flight of ads, another mailing, and that will put us over the top. Then you look back and say: I shouldn’t have done it. I spent too much money.

In our primary race, my opponent, a man of considerable means, spent, we now know, after all of the tallying up has been done, $6.2 million in the State of Utah in the primary. I know there are some States where $6.2 million does not sound like a big enough ego to assume that I have not to happen.

Indeed, you might even win. Then he began to turn. It began to shift. You bought ads. That caused him, frankly, some problems, as people laughed a little bit at that.

The fundamental point that the Senator from New Mexico has made is that if we were limited to the standard kind of fundraising activity, I would not have been able to compete with that candidate, as his constitutional right to spend his own money. I would have been denied the right to express myself unless, as it turned out, I had significant personal funds of my own.

I offer a real-life example of how important it is, when you are dealing with a candidate with virtually unlimited funds, for the opposition to have something other than the traditional $1,000-per-head contribution. I repeat: If I had lived under the circumstances on the Saturday morning cartoons because there weren’t any other places to buy ads. That caused him, frankly, some problems, as people laughed a little bit at that.

The amendment of the Senator from New Mexico and I would not have been able to compete with that candidate under those circumstances. That is what the amendment of the Senator from New Mexico would do. That is why I intend to support it. I have lived through that experience. I know how difficult it is for the underdog to raise money under the present system when the outcome is assumed to be predetermined and how much a difference can be made if the underdog is released from those requirements and given an opportunity to express himself.

I had an opponent who outspent me three to one, but because I had sufficient money to get my message out, I was able to defeat him. I think we ought to give that same opportunity to every other opponent who has a message, faced with that kind of challenge on the other side.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I yield the Senator from Tennessee 12 minutes.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 12 minutes.

Mr. THOMPSON. Madam President, I regret I didn’t get to the floor in time to discuss this a bit with the sponsor of the amendment, Senator Domenici. He is, as we all know, one of the more thoughtful Members of this body. Anything he offers I take very seriously. He is clearly addressing an issue we have talked about a lot and which concerns a lot of us, or creating a campaign where one individual can put in a tremendous amount of his own personal money and the other candidate does not have that kind of wealth and is bound by the hard money limits we have.

As I understand the amendment, the well-off candidate would still be bound by the hard money limits. If that is the case, my concern is whether or not we are not getting into a constitutional difficulty. The Supreme Court has said, if they have a great deal of money, can pass as much of that money as they want into their own campaign. It is a matter of free speech. If that is the case, then I wonder whether or not it would be self-defeating in the way I could have competed in that primary campaign.

In other words, if his hard money limits were still restrained, and the unlimited money, if that unlimited money were lifted, that would not be equal treatment under the law, it seems to me. Clearly, the wealthy candidate would still probably wind up with more money; he would have his own. But I don’t think that is the issue. If, in fact, the wealthy candidate has a right under the first amendment to do that, that kind of wipes the slate clean. Constitutionally, you can’t consider that, it doesn’t seem to me. We have to ask ourselves whether or not raising the hard money limits for one candidate and not the other is valid under the 14th amendment equal protection law.

I would also wonder whether or not, from the standpoint of a contributor, if I wanted to contribute to a wealthy candidate under those circumstances, under this amendment, if passed, I would be limited to, let’s say $1,000. If I wanted to contribute to his opponent, the limits would go up incrementally, as I understand it, to $5,000, or whatever. What about my rights as a donor? Should I be restrained from contributing more to one candidate than another because he has exercised his constitutional rights? I certainly have not had an opportunity to study this, and I am not suggesting that I have the answer to my own question. But I do wonder—and I see Senator Domenici is on the floor—I say to my friend, if we are keeping the hard money limits on the wealthy candidate, whether or not we have an equal protection problem.

I would think the answer to that problem and a way to avoid the constitutional dilemma would be to raise
the hard money limits for all candidates. The wealthy candidates certainly would still have the advantage, but in terms of the hard money limits they would be equalized.

I think Senator DOMENICI is absolutely correct when he talks about the limits that we placed on candidates in 1974 being very outdated—a $1,000 contribution today is worth about $3,300, with inflation. We have hamstring our candidates more and more money being spent in outside ads and, in my opinion, become more and more reliant upon soft money. It looks to me as though we could go a long way toward solving the disadvantage, which the Senator from New Mexico has rightfully pointed out, that a candidate without the wealth has by lifting the hard money limits on that candidate. It would not have as much significance if you lifted them on the wealthy candidate, perhaps. But you would have the equality and thereby possibly avoid an equal protection problem that we might have under the amendment.

Mr. DOMENICI. Will the Senator permit me to answer?

Mr. THOMPSON. I am happy to.

Mr. DOMENICI. I know my friend, Senator WELLSTONE, was on the floor, and I didn’t get to hear his entire statement. But if you were informed by either his speech or something else you read that I take the limits off, I do not. As a matter of fact, based on a schedule of how much the wealthy candidate is going to spend, we raise the caps for the candidates to 2 times, 3 times, and the highest they get is 5 times, or the most you could raise is $5,000 in individual contributions, and 5 times 5, or $25,000, in PACs.

Frankly, I don’t think there is an equal protection problem either because the Senator from New Mexico is not saying in any respect that the wealthy candidate is limited in terms of how much they can spend. They exercise their privilege and their right, which I dearly love—a while ago, I joked—if that is not something that concerns us in terms of equal treatment, that concern is beside the point.

Mr. DOMENICI. I plan to offer, if no one else does, the amendment that would raise the hard dollar limits for everybody. I think the answer to a candidate’s problem—any candidate’s problem—especially a challenger, is to get to that threshold. Not that he is going to be outspent necessarily most of the time a challenger is going to be outspent, but to raise the limits so that a challenger can get to the threshold of credibility as a candidate.

Mr. DOMENICI. Mr. MCCAIN. Who yields time?

Mr. THOMPSON. Not only do I share the concern of the Senator from Tennessee about the growing number of candidates who spend huge amounts of their own money and the opposition is limited to the meager rationing—that is 3 years old—of $5,000 per election and $5,000 for a political action committee.

If that is not something that concerns us in terms of large amounts of money being put into the system and, more specifically, that there is a very good chance of electing a Senator—the other things we are not quite sure of—are we worried about some of the abuses of which Senator McCAIN is speaking having an impact on the public trust and those kinds of general things.

I am getting concerned that this Senate, which I dearly love—a while ago, I wondered out loud whether it was worth $20 million which somebody wants to pay for a seat, but I did that jokingly. It seems to me one could conclude that there will be 25 Senators in this place who will have spent their own money to be elected in the next decade, in 15 years, and you would have rendered the opposition to those candidates. They do not have a chance. Maybe I do not have the Big-State figures, but they would not have a chance in the State of Tennessee or my State. If somebody comes up with $15 million, you cannot raise the money. I hope the Senator will look at it. This is at least one way we say we do not like that.

Mr. THOMPSON. Madam President, I say to my friend, if I can interrupt.

Mr. DOMENICI. Sure.

Mr. THOMPSON. Mr. THOMPSON. Not only do I share the Senator’s concern, I will go the Senator one better. I say not only raise the hard money limits for the nonwealthy candidate, but go ahead and raise it for the wealthy candidate, too. He would not need the soft money. He would benefit if the independent expenditures where all the money seems to be going nowadays. I am certainly in sympathy with the desired results of the Senator from New Mexico. He is pointing out a problem that many of us have faced from time to time. I simply wonder out loud whether or not there might be a better way of addressing this.
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Mexico is saying. I am trying to figure out a way that will get us there that will stand the scrutiny.

Mr. DOMENICI. I thank Senator Thompson very much.

Mr. FEINGOLD. I yield the Senator from Arizona from Arizona 2 minutes.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN, Madam President, Senator SNOWE, who has been a vital part of this effort with respect to probably the most controversial section of our legislation, is waiting to speak. I will be brief.

I appreciate very much what the Senator from New Mexico is trying to do.

All of us are aggravated and sometimes astounded when we hear of $70 million being spent in a Senate race.

The way I read it from the handout it says:

If the candidate exceeds $1 million in personal expenditures, the direct party contributions, soft party coordinated expenditure limits are eliminated.

It does not say capped; it says “eliminated.” If that is incorrect, I suggest the Senator from New Mexico fix that. If that is true, then a millionaire can spend $1 million and immediately the person can raise $50 million in coordinated and direct party expenditures.

Finally, in all due respect for the Senator from New Mexico, this is a meat-ax approach to a problem that requires a scalpel.

The State of Wyoming in the year 2000 had a voting-age population of 358,000. The State of California had a voting-age population of 24,873,000.

Madam President, $1 million in Wyoming, in all due respect to my friends from Wyoming, probably buys every television station in Wyoming; $1 million in California is a drop in the ocean. This does not get at really the different aspects of a small State or a big State.

If I had $1 million, I could buy a lot of TV in New Mexico. I cannot buy very much in California.

In all due respect to a very good-intentioned and well-intentioned amendment in an area we need to address, including free television time for candidates, including raising hard money as a part of a total ban on soft money and other ways we can attack this, I think this may be the wrong way to do it. My time has expired.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I agree with the Senator from Arizona. This amendment is obviously very well intentioned.

It tries to get at a problem in the original McCain-Feingold bill. We tried to address the issue of wealthy candidates being able to spend unlimited amounts while the others are constrained.

The problem is, the Senator from New Mexico does have aspects of this that involve unlimited contributions in response. That is not the same as some of the other techniques we have talked about in the past.

For example, when I first ran for the Wisconsin State Senate, under our State’s public financing, if somebody spent too much money either from somebody else or their own, the State would provide some form of public financing benefit for someone who would limit their own expenditures.

What Senator McCain and I tried to do in our original bill was say, for example, if a wealthy person agreed not to spend too much of their own money but somebody else did, the people who constrained themselves would get the benefit of free television time or reduced cost for their television time.

Those are very different ways to encourage this kind of activity and this kind of restraint than actually having unlimited contributions in response.

I agree with the Senator from Arizona that this is not the way to go, as well intentioned as it is.

I yield 30 minutes of our time to the distinguished Senator from Maine, Ms. SNOWE.

The PRESIDING OFFICER. The Senator from Maine is recognized for 30 minutes.

Ms. SNOWE. I thank the Chair. I thank Senator FEINGOLD for yielding me this time.

I rise today in support of the McCain-Feingold legislation to reform our system of campaign financing in America.

First, I applaud the sponsors of this legislation, Senators McCain and Feingold, for their courage and their remarkable commitment to the cause of campaign finance reform. Their determination on this issue has been nothing short of extraordinary, if not legendary, and it can truly be said that we would not be here today debating this issue if it were not for their leadership.

Both have gone to the mat time and time again for this cause, and I commend them for bringing us to this day.

We have certainly tried to start down the road to reform on a number of occasions during my 6-year tenure in the Senate. Unfortunately, those roads proved to be procedural dead-ends.

I thank the leadership for scheduling this time and for committing to an open process by which we can have real debate and, at the end, I hope real reform.

This could truly be our moment. This could be a tremendous time that people will point to in the future when we turned the corner on this issue and made substantive changes that will make a real and positive difference in the way campaigns in this country are funded.

When one stops and thinks about it, it is remarkable that the last time there were major changes to Federal election law were amendments passed to the existing laws in 1979. In 1979, disco was in the nightclubs, President Carter was in the White House, and some of the staff we have working in our offices is not yet. It has been a long time in coming.

There is little question that there is a strong sense that campaigns in this country have spiraled out of control.

There is a strong sense that elections are no longer in the hands of individual Americans. As the old saying goes, perception becomes nine-tenths of reality, and the reality is we have a system in need of overhaul.

Soft money totals doubled since the 1988 elections, with a total of over $1 billion in soft money for the 2000 elections. In fact, in 1980, when soft money really came into being, Republicans and Democrats combined raised an estimated $19 million, according to Colby College political science professor Anthony Corrado. Two decades later, that total had ballooned to more than $487 million. This is money that is skirting around the edges of Federal campaign finance law, and I support the soft money ban contained in the McCain-Feingold legislation.

The fact is, this is money that was never intended to help Federal candidates for office. It was intended to help build the strength of parties, which is a goal I support. But what we have seen is a veritable flood of money being given without limits of very much influencing Federal elections.

What the public sees is a system by which access and influence is gained through the size of a check, not the weight of an argument.

At the same time we address the soft money issue, I also think it is critical that we address the segment of electioneering popularly known as sham issue advertising. We do so in a way carefully constructed as to pass constitutional muster. I am speaking of advertisements influencing the Federal elections in this country but get off scot-free when it comes to any degree of disclosure or any degree of prohibitions normally associated with campaigning.

Let there be no mistake. The record I intend to outline will show these advertisements constitute campaigning expenditures as much as any advertisements run by candidates themselves or any ad currently considered to be express advocacy and therefore subject to Federal election laws.

I thank my colleague from Vermont, Senator Jeffords, for his tireless work. It has been a privilege to work with him and champion this cause.

I express my appreciation to the sponsors of this bill for including this provision in the McCain-Feingold ban of soft money. This is a critical component and critical element of the overall problems we are confronting in modern-day elections.

I have spoken of the exploding phenomenon of the so-called issue advertising in elections. That phenomenon continues unchecked and will continue unchecked if we turn a blind eye to reality. I am talking about broadcast advertising that is influencing our Federal election, in the overwhelming number of instances designed to influence our Federal elections, and yet no
disclosure is required and there are none of the funding source prohibitions that for decades have been placed on other forms of campaigning. These are broadcast ads on television and on radio that masquerade as information or educational but are really stealth advocacy ads for or against candidates.

They must be doing a very good job because there are more and more of them all the time. That is the trend.

According to a 2001 report from the Annenberg Public Policy Center, which has been studying this trend almost since its inception—particularly since the 1996 election cycle which is where we saw a dramatic change and transformation toward this trend in elections—in the past three cycles we have seen the spending on these issue ads go from $150 million in 1996 to $340 million in 1998 to $500 million in the year 2000 election. In a very short period of time the spending for these issue ads that go below the radar—in other words, they don’t kind of restrictions that other forms of expenditures on advertisements require—has gone from $135 million in 1996 upwards of $500 million, half a billion in the election of the year 2000. That is a period of time we have seen a dramatic growth in the expenditures on these types of ads.

As detailed by a 2001 report entitled “Dictum Without Data: The Myth of Issue Advocacy and Party Building,” written by Klick for the Center for the Study of Elections and Democracy at Brigham Young University:

The broadcast advertising, used by labor and then copied by business organizations in 1996, unleashed a new dimension of electioneering . . . . Permitting electioneering through issue advocacy to continue is an open invitation to individuals and groups to avoid disclosure requirements and contribution limits.

That is the essence of what we are talking about. We are talking about disclosure. We are talking about sunlight, not censorship. We are talking about the public’s right to know. We are talking about citizens making informed decisions about the quality and sources of the information they receive from messages that are influencing their votes.

How does the Snowe-Jeffords provision address this issue? It is simple and straightforward. First, we require disclosures on groups and individuals running broadcast ads within 30 days of a primary, 60 days before a general election that mention the name of a Federal candidate or show a likeness of a Federal candidate. The disclosure threshold is $1,000 for each individual donor that organization that sponsors such an ad that runs in that window, 60 days before a general election, that mentions a Federal candidate.

That $1,000 trigger is five times the current threshold that candidates are required to disclose. We create a higher threshold, a $1,000 donation to any organization that engages in this kind of advertising 60 days before a general election and 30 days before primary.

Second, it prohibits the use of union, of corporation treasury money, to pay for these ads, in keeping with longstanding principles of the Constitution. As the next chart shows, corporations have been banned from directly participating in Federal elections since 1907. That is not a dramatic change in law. It has been that way for virtually a century. The same is true when it comes to concrete participation in making political contributions to elections. They have been prohibited since 1947. Both of these prohibitions have been in law for a very long period of time.

The law said in 1947, when it came to the Taft-Hartley Act, when it came to unions, it is unlawful for any national bank or any corporation organized by the authority of any law of Congress to make contributions or expenditures in connection with any election to political office.

That is what it comes down to. It is clear; it is common sense; it is constitutional; it is not speech rationing but informational, information that the public has the right to know.

Indeed, there is nothing in this provision that bans any form of speech. We are saying if an organization or an individual spends more than $10,000 per year on broadcast ads, you cannot use corporation treasury money. That is the only ban on anything in this amendment. If you do decide to engage in that kind of advertising, you have to disclose who is bank rolling the ads if you donate more than $1,000. You have to disclose the identity of the organization and the donor.

We are not requiring every group to disclose entire membership lists, only the major sponsorships of these advertisers because it tells us something about the message being sent. We developed this approach in consultation with noted congressional scholars and reformers such as Norm Ornstein of the American Enterprise Institute; Joshua Rosenkranz, director of the Brennan Center for Justice at NYU; and Daniel Ortiz, John Allan Love Professor of Law at the University of Virginia School of Law.

This provision is narrowly and carefully crafted and based on the precept that the Supreme Court has made clear that for constitutional purposes, campaigning—make no mistake about what these ads do; these are campaign ads; they are not issue advocacy ads—is different from other speech. It is built upon the bedrock of legal and constitutional principles extending current regulations cautiously and only in the areas in which the first amendment is at its lowest threshold.

We will hear a lot of statements throughout the next 2 weeks about the Supreme Court’s decision in Buckley vs. Valeo, arguing if an ad is not what is known as express advocacy, if it does not include the so-called magic words such as “vote for candidate X” or “vote against candidate X” then we cannot impose disclosure requirements and we cannot place source restrictions on their spending. Period. End of story.

I refute that mistaken notion. I want to emphasize that such an interpretation of Buckley is not the end of the story—far from it. You do not have to take my word for it. As a Brennan Center report from the year 2000 said:

We must recognize that, as a legal matter, Congress is not foreclosed from adopting a definition of “electioneering” or “express advocacy” that goes beyond the “magic words” test [for or against] . . . as long as those terms and overbreadth concerns are met. Congress is presumably free to draft new legislation that is more effective in achieving its constitutionally valid goals.

According to the Center’s scholars’ letter of this month:

Congress has the power to enact a statute that defines electioneering in a more nuanced manner, as long as its definition adequately addresses the vagueness and overbreadth concerns expressed by the court.

Certainly this provision is not vague. We draw a bright line. Anyone will know that running ads more than $10,000 in a given year, mentioning a Federal candidate 30 days before a primary, 60 days before a general election, and seen by that candidate’s electorate, being aired in that candidate’s district or State, will be covered by this provision. Anyone not meeting any single one of those criteria will not be affected.

As to the issue of broadness or overbreadth, again quoting the Brennan Center letter:

A restriction that covers regulable speech can be struck if it sweeps too broadly and covers a substantial amount of constitutionally protected speech as well. Under the overbreadth doctrine, the provision will be upheld unless its overbreadth is substantial. A challenger cannot topple a statute simply by showing that one or more of its applications that would yield unconstitutional results.

The empirical evidence demonstrates that this provision and the criteria included in this amendment are not “substantially overbroad.” The fact of the matter is, we have a body of evidence on these kinds of ads that never existed before, that there effectively is no line between the express advocacy and the sham issue ads in terms of voter perception.

In other words, an ad that runs, that says, “John Doe is dishonest and corrupt and un-American, call John Doe and tell him how you feel,” is seen every bit as much to be an ad designed to influence a Federal election as an ad using the so-called magic words such as, “Vote for John Doe.”

As a legislative body, we are allowed to devise a solution to this new problem, and the Court will give it a fresh look. The truth is that 25 years ago there was an attempt by Congress to cure a previous statute that was poorly and vaguely written, at a time that is now over a quarter of a century ago. The
fact is, the Court has not had any new law from Congress to consider on cam-
paign finance reform in the last 25
years in order to review the matters, in
order to review the kinds of trends that
have taken place that have reinter-
preted law that was passed more than
26 years ago.

So it is our prerogative, Madam
President, and, I would say, our obliga-
tion as a legislature, to try to craft so-
lutions to problems when it is in our
public interest that is why we have
three branches of Government. We will
hear it may have a constitutional ques-
tion. We have never hesitated when we
have deemed it to be in the public’s in-
terest, government’s interest, our coun-
country’s interest, to pass legislation—and
in fact in some cases even testing the
courts. We did that on the line-
titem veto. It did not deter Members of the
Senate or Members of the House from
voting for that legislation be-
cause there were some constitutional ques-
tions.

The same is true for the flag-burning
issue. Many of us are in support of that
constitutional amendment. There have
been some constitutional questions
raised, but again that should not deter the
legislative branch of Government from
moving forward on what it deems
and perceives to be in the Govern-
ment’s interests.

Again, as we look at some of the
analyses and interpretations that have
been done in recent studies on election
trends, let me again go back to how
some of the experts are defining it.

In the Magleby v. Brigham Young
University study that was done this
year, as they said as they defined the
uses of political money in campaigns
and elections:

d ... neither the Supreme Court (back in
their 1976 decision) nor the FEC had substan-
tial data with which to create their rulings. . . . If re-
spondents see election issue advocacy in the
same way as candidate or party communica-
tion.

Both of which are considered “ex-
press advocacy” by definition—
then the Buckley distinction is mistaken.

This report, appropriately entitled “Dic-
tum without Data,” bills itself as “the first
systemic test of the court’s assumption that
the magic words are a reasonable standard
for what constitutes election-related activ-
ity.”

Again, what is most telling about the
next chart is the statistics that are represen-
ted: The degree to which these ads are
intended to influence the vot-
ers’ vote. We hear issue advocacy. No
one is denying that every group should
have the right to issue their ads talk-
ing about their positions on a paro-
ticular issue. But in this study—again,
it is another interesting phenomenon of
the current election trends—re-
spondents were asked the degree to
which these ads influenced their votes:
On a scale of 1 to 7, with 1 meaning
that the ad did not have any
influence their vote—in this case it was
in the Presidential election—and 7
meaning the ad was clearly intended to
influence how they would vote in the
Presidential election, how would they
rank this ad?

Guess what. The ads that they viewed
to be the most influential of all the ads
run were the ones that were run by in-
terest groups—organizations, was a con-
candidate, that are supposed to issue ads,
even more than the ads that were run
by the candidates themselves.

In other words, candidates who ran
their ads that obviously were
tended to speak for a candidate
on behalf of their issues projecting an
image, projecting their positions on
certain issues—those were seen to be
less influential than the ads run by these
interest groups that identified a
candidate 60 days before election.

Furthermore, a remarkable 70 to 71
percent scored the election issue advoc-
acy ads as a 7, 70 to 71 percent thought
they were more influential, and 83 per-
cent clearly intended to be about the elec-
tion or defeat of a particular candidate
than the candidate’s own ads.

I think this is very illustrative of the
problem we are now facing with these
candidates were running them—they
do not contain the magic words—these
election issue ads were seen as more
clearly intended to be about the elec-
tion or defeat of a particular candidate
than the candidate’s own ads.

We do not know who finances these
ads. We don’t know the identity of
these organizations. All we know is
that somebody is spending a whole lot
of money for these kinds of advertise-
ments.

So if you think about it, the ads that
the candidates themselves were run-
ing, ads which were automatically
classified as express advocacy because candidates were running them—they
were obviously ads to run in favor of a
candidate or against a candidate and to
gain one’s votes—those ads were per-
clearly intended to influence their
votes than the so-called issue ads. So it is
no wonder then that the candidates themselves have taken
running ads without mentioning the
magic words “vote for or against.”

Again, in their report on the 1996 elections, found that
only 4 percent of candidate ads used
the magic words 4 percent. In other
words, 4 percent of the ads that were
run by candidates, sponsored by can-
cidates, did not use the magic words
“for” or “against.”

Keep in mind that there is a legal
benefit for the candidates who run the
so-called issue ad. So the only reason
they would have chosen this route over
ads saying “vote for me” or “vote
against” is that they believed the
nonmagic words—not using those
words—were more effective in getting
their campaign message across, which,
of course, is why those organizers
found out themselves.

Furthermore, the report concluded,
as our experience demonstrates, that
policy distinctions such as those drawn
by the Court and the FEC have no
basis in actual experience. And much of
what falls under the Buckley definition
of issue advocacy is indistinguishable
to respondents from party and can-
didate communication. Yet issue advoc-
cacy operates under very different
rules, which, of course, is to say no
rules, and has negatively affected our
electoral process and candidate ac-
countability.

We now have established how effec-
tive these ads are in influencing our
candids and how, based on the
magic words—that were mentioned
back in the Buckley v. Valeo decision
by the Supreme Court in 1996 have
become.

Let’s see how the Snowe-Jeffords pro-
visions dovetails with these ads at the
end of an election and further evidence
as to what these ads are really doing
and the role they are playing in our
elections, and ever more so.

The effectiveness of these kinds of
ads is not lost on the sponsors. First
of all, we know they have gone up from
$135 million in the 1996 election to $500
million in the year 2000 election. But
that’s the look at the final months of the
election in the year 2000 and TV spots
that mentioned candidates—all of the
ads we are talking about in the final 2
months of the election. Ninety-five
percent of the television spots that
aired 2 months before the election
mentioned the candidate’s name.

Why would you say—because on an aver-
age of 95 out of 100 ads were talking
about candidates in the final months of
an election? Is that just a remarkable
coincidence? Obviously.

As you see from this next chart,
again, it talks about the final 2 months
of the last election and that 94 percent
of the televised issue spots made a case
for or against a candidate.

Again, there is further proof of the
fact that all of those ads that were run
in the last 2 months, we believe, had an
8-day period that we address in this legisla-
tion—were ads that were run by issue
organizations that mention a can-
cidate—95 percent of them. Ninety-four
percent of those ads were seen as mak-
ing a case for or against the candidate.

Secondly, obviously, they understand that
those ads do and will influence the out-
come of an election because they iden-
tify candidates 60 days before an elec-
tion. Ninety-five percent of those ads are
mentioning a candidate by name.

Let’s get the content of these ads. I
guess it won’t come as a shock to all of
us who are on the election cycle that 81
percent of these televised spots have an

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attack component. Eighty-four percent have an attack component. Obviously, they are also designed to influence the outcome of a campaign because they are negative advertisements, and, in fact, the interest groups in this last election cycle ran the most negative ads. They are informational, not comparative ads. They weren’t comparing records, but they were frontal attack ads.

People have a right to do that. What they can’t do is to own a right to do it. So run those ads that are clearly campaign ads and yet they do not have to disclose a dime; they don’t have to play by any of the campaign finance rules whatsoever. To argue otherwise, frankly, I think flies in the face of logic.

This record clearly shows that the Snowe-Jeffords provision embodied in the McCain-Feingold legislation in fact is not overly broad. But if all of that isn’t enough, let me tell you something further about a report that was issued just last week that not only confirmed what the track record already indicates but provided additional proof of the problems we are facing in this election cycle.

The report that was issued last week entitled “The Facts about Television Advertising and the McCain-Feingold Bill,” written by Jonathan Krasno and Kenneth Goldstein, studied issue advertising in the 2000 election in the top 75 media markets. It showed that: “Would the definition of electioneering created by McCain-Feingold inadvertently capture many of those commercials that might be considered pure issue advocacy?” Because there is a concern when you look at the Constitution side of the question: What about a group that wants to advocate in behalf of their issue in that election cycle of 60 days?

Guess what. When they ran those ads by various focus groups, and identified those ads that were 10 percent of the ads were true issue advocacy ads; 99 percent were not. Ninety-nine percent of those ads were not issue advocacy; they were electioneering. Just 1 percent of the total number of ads would be captured by the Snowe-Jeffords provision that would have been viewed to be issue advocacy. In other words, just 1 percent of what would be genuine issue ads appeared after Labor Day and mentioned the Federal candidate. The other 99 percent were electioneering ads.

As I mentioned earlier, the Supreme Court would not knock down anything based on a few examples. We are talking about thousands and thousands of ads. We are not discussing a provision in this legislation that is overly broad or vague. We are not talking about ads that are purely designed to convey an issue. But what we are addressing here and what we are saying is we are trying to get to the heart of the issue. Of the 10 percent of the ads that have identified a candidate, that run in that 60-day period, that clearly are intended to influence the outcome of an election.

The PRESIDENT OFFICER. The Senator’s time has expired.

Mrs. SNOWE. I ask the Senator from Wisconsin for an additional 10 minutes.

Mr. DODD. Madam President, how much time remains?

The PRESIDENT OFFICER. There are 38 minutes remaining.

Mr. DODD. On both sides?

The PRESIDENT OFFICER. There are 38 minutes remaining for the Senator from Connecticut and 60 minutes remaining for the Senator from New Mexico.

Mrs. SNOWE. Mr. DODD. I know my colleague from California seeks 15 minutes, and I presume others may follow. Why don’t you take 10, and that will leave us plenty of time for the Senator from California. Why don’t we make it 7. In that way, we have a little more room.

The PRESIDENT OFFICER. The Senator is recognized for an additional 7 minutes.

Mrs. SNOWE. I thank the Senator for yielding.

In this final report that was issued, we now show an evaluation of the relationship between TV ads and the congressional agenda. I have been asked the question: Well, what about a group that wants to run an ad in that 60-day period and we happen to be in session? It could obstruct their ability to be able to communicate. Again, it wouldn’t deny them that ability, but it would require disclosure when they mention a candidate 60 days before an election.

But what is interesting about this chart, and what it illustrates, is it tracks the number of candidate ads that run as we get closer and closer to the election. And it compares to the number of issue ads that were run throughout the year in the top 75 media markets, and then the number of votes going on in Congress.

Guess what. The ads that were run by those so-called issue organizations tracked the ads that were run by candidates. The bottom line shows the votes in Congress. As you can see from the chart, those ads run by those issue organizations were not done to track what was going on in Congress. What they were doing was running ads to track the candidate’s ads.

As you can see by these two lines on the chart, those issue organizations and the ads run by the candidates themselves during that period of time are almost identical. It had nothing to do with what we were doing in Congress.

So, obviously, the intent of these ads, beyond the fact that they mention a candidate in that 60-day window before the general election, is designed to influence the outcome of the election, not concerned about what is taking place in Congress. So, again, I think it is pretty clear in terms of their intent, in terms of what they are attempting to do, and what is the focal point of these ads.

I will get into a lot of this later because I think this is an issue that bears repeating throughout the course of this debate over the next 2 weeks, to remind people we are not talking about those genuine issue ads that Buckley v. Valeo and the Supreme Court thought of 26 years ago. We are talking about a whole new phenomenon in America in modern day politics of which everybody is well aware.

So let’s talk about the difference between the two ads. We will call this the electioneering ad. It does not say “vote for” or “vote against” — again, those magic words. Back in the 1976 Supreme Court decision, the Supreme Court said, as an example, you should use those words “vote for” or “vote against” to determine that these are truly political-type election ads.

But look at new ads that have cropped up, particularly in the last three election cycles, to show you the difference.

Now, we see the electioneering ad. This is what would be covered by the Snowe-Jeffords provision in terms of disclosure. The announcer says:

We try to teach our children that honesty matters. Unfortunately, though, Candidate X doesn’t get it. He charged his employer to buy politicians and judges with money and jobs for their relatives. Candidate X advertises corruption . . . Call candidate X. Tell her government shouldn’t be for sale. Tell her we’re better than that. Tell her honesty does matter.

Now, can anyone say with a straight face that this ad isn’t a clear attack ad on a candidate? Shouldn’t we know who is paying for this ad running 60 days before an election with $1,000 donors, when an organization is spending more than $10,000 in a campaign period?

Now, let’s look at the genuine issue ad, which is the difference, if we are talking about a genuine issue ad, which this provision would not apply to. Again, let’s read it:

This time of the year, the average person’s thoughts turn to the IRS. We all know one person can’t fight ‘em. But a bunch of average folks like us can eliminate the IRS with the new Fair Tax Plan, the only plan that’s fair to everybody . . . Some things are worth a good fight. Call to join us.

You could even say “call your Senator, call your representative,” or you could even provide your Representative’s phone number in the ad. If you are not identifying the candidate, you will not come under disclosure provisions in this 60-day period.

That is the true distinction of the type of ad we are attempting to force disclosure on, the ones in which they identify a candidate by name 60 days before an election.

I think the American people are entitled to know who is financing these ads. That is what this amendment gets to the heart of: whether or not we are prepared to do that at this moment in time in this Congress, and seeing the extraordinary developments in our elections and what has transpired to see some of the monstrosities that
Madam President, a while back, when Senator Alan Simpson was a Member of the Senate, and we had just concluded a meeting of the Judiciary Subcommittee on Immigration—it was a Friday—I said to Senator Simpson: Are you going home? He said: Yes, I’m going home to Wyoming to campaign.

I said: Well, you have no notice to set up an event.

And he said: Well, I just go to Cody, and I go and have lunch at the grill, and I see everyone in Cody. So that is the way I campaign.

It brought home to me how different campaigns are across this great land. In California, a State with more people than 21 other States combined, you cannot just go home and, without making plans, go into the corner drugstore and campaign.

Campaigning, indeed, very costly. I have been involved in four statewide campaigns in the last decade. I have raised well over $50 million: $23 million in 1990, in a race for Governor; $8 million in 1992, in my first race for the Senate; and 2 years later, $14 million in the 1994 election. My opponent in that election spent $30 million of his personal wealth in his attempt to defeat me. In this past race, just concluded, I raised $9 million.

Now, whereas I support McCain-Feingold as it is, I must also comment that the Domenici amendment we are now considering has a good deal to recommend in it.

Let me talk about my own experience, from the 1994 election I just mentioned. It was February. It was raining outside. I turned on the television to watch the Olympics, and what did I see? I saw a full spot—in February—by my opponent—a minute spot in the middle of the Olympics. My heart dropped into my heels, and I knew at that instant that I was in for a grueling campaign.

In fact, my opponent was able to have what he called a maximum buy on television for all but 2 weeks of the remaining part of the year because he was able, quite simply, to write a check to pay for that advertising.

You don’t have to hire a certified public accountant. You don’t have to hire fundraisers. You don’t have to spend tens of thousands of dollars on computers and so on and so forth. It is a very different campaign if a person has extraordinary private wealth. That is why the amendment becomes important in all of this because it aims to level the playing field.

In that 1994 campaign, I saw how important trying to level the playing field is. The fundraising demands I faced were extraordinary. I am a pretty good fundraiser. As it turned out, I simply couldn’t keep up with my opponent’s spending. I couldn’t keep up with $30 million of personal wealth. I could raise about $14.5 million. And to do that, I put some of my own money into that race.

What Senator DOMENICI is trying to do with his amendment is to say that the person who is going to put his or her own wealth into a race must say so up front. If the amount the candidate intends to spend is going to exceed $500,000, then the opponent of the self-financing candidate can have the hard money contribution limits increased threefold. If the wealthy candidate spends between $500,000 and $1.0 million, then the hard money contribution limits increase fivefold. Over $1.0 million, and the new hard money limits stay in place. This amendment is a very different approach that requires disclosure and institutional scrutiny, so that all Americans will understand who is trying to influence the outcome of an election shortly before that election occurs.

I think the time has come to pass this sweeping reform. Something along the way has certainly gone wrong. The McCain-Feingold legislation would certainly make that difference.

The PRESIDING OFFICER. The Senator from California?

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, no State has contributed more to the cause of campaign finance reform than the State of the last Speaker and the distinguished senior Senator from California, Mrs. FEINSTEIN.

With that, I yield 15 minutes to the distinguished senior Senator from California, Mrs. FEINSTEIN.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Madam President, I want to begin by thanking both Senators FEINGOLD and MCCAIN not only for this bill but also for their many forays out in the countryside where I think they have really brought home the cause of campaign spending reform to the American people.

I have had the privilege, as have you, of voting for this bill a number of times. I will vote for it again. I will vote for it without amendments, and I will probably vote for it with amendments. This bill addresses a significant problem, and that is soft money. By eliminating soft money from federal campaigns, I think S. 27 cures the most nastardly problem with the way campaigns are currently conducted. I think the amendment that Senator SNOWE and Senator JEFFORDS have added to the campaign reform bill makes it an even better bill. So we have a good bill before us.
For my purposes right now, I indicate my support for the Domenici amendment.
I ask unanimous consent that my time be charged to the sponsor of the amendment, Senator DOMENICI. I also ask unanimous consent that Senator Jeffords be allowed to follow me.

The PRESIDING OFFICER. Is there objection?
Mr. DOMENICI. I didn't hear the request.
Mr. FEINSTEIN. I asked unanimous consent that the time I have used be charged to the Senator from New Mexico, along with any time I might have remaining so that he might use it in support of the amendment and, if it is agreeable, that Senator Jeffords might follow me.

The PRESIDING OFFICER. Is there objection?
Mr. DOMENICI. Madam President, I was going to say the time should be charged to my own account, to which I wonder if Senator Jeffords would let me have 3 minutes before he speaks to thank the Senator from California for her support.

The PRESIDING OFFICER. Without objection, so ordered. The time will be so charged. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I say to the distinguished Senator from California, I greatly appreciate her comments. The amendment may be negotiable in terms of how we better balance the playing field, but there is no question that she has hit the nail right on the head.

One of the brand new problems of the last decade or so is the growing propensity on the part of men and women—great people—who have decided to pay for their campaigns with their own money and use the privilege, the right that the Supreme Court has said they have, that that money cannot be limited. We have more and more candidates spending up to $5-, $10-, $20-, $30-, even $40 million-plus of their own money. That is fine with this Senator. I am not here trying to do anything about that. The Supreme Court has spoken.

I have heard from a Senator saying she would support the Domenici amendment based upon having experienced an opponent who contributed in multiples of $10 million for their campaign coffers, to which I say that I ask that Senator Jeffords let me have 3 minutes before he speaks to thank the Senator from California for her support.

The PRESIDING OFFICER. Without objection, so ordered. The time will be so charged. The Senator from Wisconsin.

Mr. DOMENICI. Madam President, I yield 5 minutes to one of our strongest supporters and cosponsors, the distinguished Senator from Vermont.

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

Mr. JEFFORDS. Madam President, I thank the Senator from Wisconsin.

I also thank the Senator from California for the accurate comments, especially relative to the amendment of my good friend, Senator PETE DOMENICI. I think that is an excellent start. We are going to have a better bill. We have a great bill right now.

I thank also Senators MCCAIN and FEINGOLD for the time and devotion they have shown to this issue, ensuring the Senate would be able to fully consider this very important legislation. I especially thank my colleague, Senator SNOWE, for her work and for her very excellent presentation. I know she has even more to say about the amendment on which she and I have worked so hard for so many years. Hopefully, we will see a good result this year.

I have heard some of my colleagues question the importance the American public places on passing campaign finance reform legislation. Not only do I think the American public believes this issue needs to be addressed by Congress, I believe the desire has only increased following the controversy surrounding the pardoning of Marc Rich.

Our current campaign finance system has left many Americans disillusioned with the political process and feeling disconnected from their elected representatives during the 1998 debate on campaign finance reform. I was also proud to co-sponsor the comprehensive campaign finance bill Senators McCain and Feingold introduced last Congress that included this legislative solution.

I feel strongly that the legislation the Senate must ultimately vote on include some kind of changes to the current system concerning advertisement. We have crafted a reasonable, constitutional approach to this problem. Our provision will require disclosure of certain information if you spend more than $10,000 in a year on direct-mail communications which are run 30 days before a primary or 60 days before a general election. It also prohibits the direct or indirect use of union or corporate treasury monies to fund electioneering communications running during these time periods. I will come back at the appropriate time to more fully discuss our provision, including the need for this provision, why it is constitutional, and to address...
some of the arguments our opponents continue to raise concerning these provisions. I look forward to a full and open debate on this important issue, and pledge to continue working with my colleagues to enact comprehensive campaign finance reform into law this year.

I yield the floor.

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

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

Mr. REID. Mr. President, on behalf of Senator DASCHLE, I extend 15 minutes to the Senator from Illinois.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Illinois is recognized for 15 minutes.

Mr. DURBIN. I thank my colleague. Mr. President, I rise in support of the Domenici amendment. I want to salute my colleague from New Mexico. I think he is addressing a very serious concern that all of us—not just Members of the Senate and candidates but every American—should share. When the Supreme Court decided over 25 years ago, in the case of Buckley v. Valeo, that we could not limit the amount of personal wealth that a candidate could spend in a campaign, they said it was a tribute to free speech; that the wealthiest among us should be able to spend as much money as they have or want to spend to become candidates for public office.

Sadly, our system of government, and certainly our system of political campaigns, is geared so that those with the most can overwhelm candidates of modest means. I think candidates in America are now broken down into two categories. I call them M&Ms or megamillionaires and mere mortals. I happen to be in the second category. If you are a mere mortal running for office nowadays, you spend every waking moment on the telephone trying to figure out ways to raise the literally millions of dollars necessary for your election campaign. This is a reality.

In a State such as mine, Illinois, it will cost you $10 million to $15 million to be elected to the Senate. That is not an uncommon amount or an extraordinarily large amount; that is reality. It reflects the cost, primarily, of radio and television. I will be offering an amendment during the course of the debate with some colleagues that addresses the cost of television in particular because we have this strange anomaly where we say the television stations have to give candidates for office, some people I had this amendment, and they said, “Why are you doing that? Senators don’t have those caps on them, do they?” See, they don’t know that for 26 years, since post-Watergate, we have been limited—you in your campaign and the New Mexico Senator in his campaign—to $1,000 per each individual from wherever, your State or my State. Then $1,000 in the primary and general. That is all—$2,000. Along comes a wealthy candidate and plunks down $10 million. I should have figured it out when I was a college student. It is a case of Buckley v. Valeo, that we could not deal with this phenomenon of people who have this much money to put into the campaign, how can you attract candidates from either political party to get interested?

It is bad enough that it is a pretty hectic life. I enjoy it, and I am glad I am in it. I am happy the people of Illinois gave me a chance. It is tough when there are these invasions of your privacy. You give that up. That is one of the first things to go, and people say: To reward you for running for office, we are going to personally let you raise $1 million; won’t that be fun? You can walk along the streets of your hometown and people race to the other side of the street to avoid you because they are afraid you are going to ask for another contribution. That is a sad reality in this business.

For a rich man is a person who is self-funded and has so much money they do not even have to worry about this effort.

Frankly, I am so worried this system cannot survive if only those people serving in the House and Senate are those who are independently wealthy and do not have to go through the process in any way whatsoever.

Also, the Senator makes a good point about loans to the campaign because a lot of people who are very wealthy do not give money to their campaign; they loan it and say they will be repaid later.

Will the Senator be good enough to explain the provision he has on loan repayment?

Mr. DOMENICI. I will be delighted. You cannot have it both ways. You are going to put up your own money and say to the electorate: Don’t worry about special interest on this candidate’s part; I’m not bothering anybody for any money; it’s my own. So you spend $5 million or borrow $5 million.
Isn't it interesting, for the most part, you are not in office 1 month and you are interested in the special interests. Why? Because you want to pay the loan off. So now you are out raising money. You advocated: Nobody will touch me; it is my own money; I am entitled to spend it for what I and my constituents want. That is all well and good, but my amendment says if that is the case, when you get elected, you cannot go asking people to contribute money to pay off your debt. That is a very simple and fair proposal.

Incidentally, it does not apply retroactively. I am not trying to get anybody. I am saying in the future you put the money up and you know it is not coming back after you get elected. That is what the Senator is talking about.

I think that is very fair. In fact, it should be a condition to your putting up your own money, knowing right up front you are not going to get it back from the people you are asking to give you money. Asking them to try to get money to repay those loans; you have made that contribution and have to live with it. I think there is some reality.

The Senator from New Mexico is probably aware of this, but I want to make sure it is on the record.

According to the Federal Election Commission, candidates gave or loaned their campaigns $194.7 million from personal and immediate family funds in the 2000 election cycle. This is up from $107 million in 1998 and $106 million in 1996. The $194.7 million in 2000 included $10 million from Presidential candidates, $102 million from Senate candidates, and $52 million from House candidates.

Think about what we are saying about the men and women who run to public office. That you have to be loaning what one of the rules is to be part of the game: That you have to be part of the business of the men and women who run to be candidates, and $52 million from House candidates.

I yield the floor.

Mr. REID. Mr. President, my friend from New Mexico, Senator DOMENICI, has identified a real problem. Let me notify Members of the Senate, we have received calls asking about our amendment. For the last several weeks, Senator DOMENICI and I have been engaged in discussions and negotiations between the two of us to try to come up with an amendment on which both he and I could agree. Let me notify my colleagues that we are getting closer at this late hour and we hope to have something resolved in the next few minutes. I will withhold any comments about the specifics of that agreement.

The point is, Senator DOMENICI has identified a real problem. He has identified a constitutional loophole. It is a constitutional loophole that needs to be confronted. What am I talking about? I think it would come as a surprise to the average American to know the current state of the law is this: Individuals who contribute to how much money he or she can contribute to a candidate for the Senate—every person in this country, except one. That one person is a candidate himself or herself. Based on the Supreme Court's Buckley case, and based on interpretation of the first amendment, Congress cannot limit how much money an individual puts into his or her own campaign.

We have what for most people, the average person, who would seem to be a constitutional limitation. In this country is limited to only giving $1,000 or up to $1,000 to a candidate for the Senate or a candidate for the House of Congress.
Representatives. However, an individual candidate, if he or she has the wealth to do it, can put an unlimited amount of money into his or her campaign.

We have seen now in the last several election cycles this phenomenon. Most people find it obscene. Most people find it a ridiculous situation that someone can spend $10 million, $20 million, $30 million, $50 million, or $60 million of their own money. As a practical matter, a person who has that much money spends against the system has a very different time competing, making it a level playing field or even close to being a level playing field.

I congratulate my colleague for his concern about this problem. The solution, quite candidly, is not to, of course, limit what a person can put into the campaign. We cannot do that. We cannot stop someone from putting an unlimited amount in their campaign. The only way to do that is to change the constitution. What we can do is give the other person, the person who is faced with doing battle with that person who is putting $10 million, $20 million, or $30 million of their own in the campaign, we can give their opponent some ability to compete.

Senator DOMENICI does this in several different ways. The amendment I have will also do so. The amendment I will be proposing raises the dollar amounts a person can give to an individual candidate if he votes in a sliding scale based on two factors. One, the size of the State; the other, based upon how much money that individual millionaire puts into his or her own campaign. At one level, we raise the donor limits for the other person to one amount, and we keep ratcheting it up.

I believe it fits the constitutional requirements of proportionality. We have cases we can supply to any Members of the Senate who want to look at that. We believe it therefore is, in fact, constitutional.

The reality is each Member who has gotten to the Senate knows how much they can raise in their individual State under the current limits. I will take the Chair’s home State and my home State of Ohio. In the past election cycles, going back to 1988, no one has raised more than $8 million in the State of Ohio for any of those campaigns for the Senate. It stayed fairly constant over that period of time. Taking our State as an example, if someone was running against a millionaire in the State of Ohio and they wanted to put in $20 million, that person who put in their own $20 million would have a tremendous advantage over another candidate who did not have his or her individual wealth. Based on what we have seen in the last 12 years in Ohio, $8 million is about all you can raise. So you have one candidate with $20 million of their own, another candidate with $8 million maximum that he or she can raise.

The DeWine and Domenici amendments—and we do it in different ways—begin to level the playing field, making it easier for that candidate running against the millionaire to raise money. You still have to get it from individuals, but it makes it easier to do it. It would not level the playing field. I don’t think there is anything to do to level the playing field, but it moves it a little closer and makes that race a lot more competitive.

I thank my colleague from New Mexico for yielding me time, and I congratulate him for identifying a real problem. The Senator from Michigan and those who have asked about the DeWine amendment we have shared with Members, Senator DOMENICI and I, as well as others, are involved in negotiations and we hope to work out those differences.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. McCONNELL. It is my understanding the Senator from New Mexico and the Senator from Ohio are hoping to work out an amendment that is mutually agreeable.

Mr. DEWINE. That is absolutely correct. We are working on it now. We hope to have something in the next half hour.

Mr. DODD. How much time remains on this amendment?

The PRESIDING OFFICER. The sponsor has 23 1⁄2 minutes and the minority has 25 minutes.

Mr. McCONNELL. It is my understanding this vote occurs at 6:15, but if I added up the minutes correctly it carries past that time.

The PRESIDING OFFICER. It goes beyond that time.

Mr. REID. Will the Senator yield?

Mr. McCONNELL. I am happy to yield.

Mr. REID. Mr. President, there are some who made a request that it would be very helpful if the vote would be at 6 o’clock rather than at 6:15.

Mr. McCONNELL. I say to the distinguished assistant Democratic leader, we are checking on the 6 o’clock time and should know momentarily whether or not that would be agreeable.

Mr. REID. We have a couple of Members over here who would like to have the vote sooner if at all possible.

Mr. McCONNELL. I am told there is an objection on this side to moving the vote up to 6.

The PRESIDING OFFICER. There is objection on the majority side to the vote at 6 o’clock.

Who yields time?

Mr. DODD. Mr. President, I am happy to yield 3 minutes to my colleague from Michigan, Senator LEVIN.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, we are facing a real crisis in campaign finance in this country. We have effectively no limits on campaign contributions, even thought to provide that there be a $1,000 contribution limit from an individual, $5,000 from a PAC, and so forth. Because of the soft money expenditures, we in effect have no limits on campaign contributions anymore despite the law. The law has been evaded, bypassed, mainly now financing television ads, often negative, called issue ads.

I think most members who have seen these kinds of ads who have been in this profession long enough recognize that there is no difference between the issue ad which does not name the candidate and says that you should vote against him, and the issue ad which says this candidate is great or his opponent is awful but doesn’t use the magic words “vote for” or “vote against” and the candidate ad which uses the magic words “vote for” or “vote against.”

At hearings we have held at the Governmental Affairs Committee, we put these television ads on the screen right next to each other. There is no reasonable person who could reach the conclusion that the ad which is paid for with soft money is anything different, in the context of the cases, from the ad which is paid for in hard money.

So we have now trashed the limits on contributions that exist in the law. Hopefully, McCain-Feingold is going to restore those limits. But the first amendment which is offered to this, it seems to me, goes in the wrong direction and opens up a number of loopholes, No. 1, but also, it seems to me, is not workable the way it is written.

I can understand the frustration of running against someone who is either partly self-financed or totally self-financed. It seems to me there is a way in which we ought to try to address that. But we surely should not try to address that by blowing the caps on party contributions, which is what this amendment does.

I do not think we should do that by having a process here which is unworkable because it is not graduated from State to State. Somebody in a State with 30 million people is given the opportunity to raise funds from all of the contributions from the people who contribute directly to the campaign in multiples, the same as somebody who comes from a small State, giving the person who comes from a larger State a much greater advantage over someone coming from a smaller State, although they are both running against the person who is putting in their own money.

I wonder if the Senator will yield 3 more minutes?

Mr. McCONNELL. Fine.

Mr. REID. I yield 3 more minutes.

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

Mr. LEVIN. So the first amendment that comes before the Senate is an amendment which is written in a way to eliminate any limit.

Mr. McCONNELL. Was consent just granted for something?

Mr. REID. Three more minutes.

The PRESIDING OFFICER. Fine.

Mr. McCONNELL. It is my understanding the Senator from New Mexico and the Senator from Ohio are hoping to work out an amendment that is mutually agreeable.
party contributions altogether in the case that somebody partly self-finances a campaign. Second, it has a procedure here which doesn’t strike me as being either fair or workable. It is unfair because it is not graduated, giving candidates or somebody who has a small number of hard money contributors gets a much greater opportunity to raise money than somebody who is partly self-financing very different rights and opportunities, because the person who has a large number of hard money contributors, presumably somebody from a smaller State. Since there is no gradation in terms of the States, all the States are being treated the same, despite the fact that there are some very obvious differences.

Finally, it seems to me this is an impractical approach because of the trigger, the trigger being the candidate has to file a declaration, when the declaration of candidacy is filed, to declare whether or not she intends to spend personal funds of a certain amount. That intention can be honestly “no” at the beginning of a campaign, but near the end of a campaign the temptation is great. If somebody near the end of the campaign borrows half a million dollars, then that person has a decided advantage which is not corrected by this amendment. Even though you have to file a notice within 24 hours, it could come far too late for the person who is disadvantaged by this large amount of money to do anything much about it.

So it seems to me, for all these reasons, this amendment is not the right approach to a problem. But it is a problem. I want to acknowledge the Senator from New Mexico who has identified, as have a number of people on this floor, a problem which is a real one, which is what happens in the case of somebody who intends to spend personal funds of a certain amount. That intention can be honestly “no” at the beginning of a campaign, but near the end of a campaign the temptation is great. If somebody near the end of the campaign borrows half a million dollars, then that person has a decided advantage which is not corrected by this amendment. Even though you have to file a notice within 24 hours, it could come far too late for the person who is disadvantaged by this large amount of money to do anything much about it.

We have that problem now. I don’t think this amendment solves it in a practical way or in a fair way. But that does not mean the problem does not exist. I hope we will continue to try to work on some practical way, which doesn’t blow caps, to address that problem.

Mr. MCCONNELL. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 22 minutes.

Mr. MCCONNELL. I yield to the distinguished Senator from Alabama 10 minutes.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the Senator from Kentucky for allowing me to speak on this amendment. It is something about which I have felt strongly for a long time. I find absolutely nothing unreasonable or unfair about the Domenici proposal. I think the way it deals with the circumstances in a very realistic way.

I remember when I was running for the Senate in 1995, a prominent leader was on television. He said: People are going out deliberately recruiting millionaires to run for office. In fact, he said, we are creating a millionaires club, particularly in the Senate.

Since I was running in a Republican primary, facing seven different candidates, all of whom were spending over $1 million of their own money, I listened to that. It meant a lot to me at the time. Two others in that race I think spent approximately a half million dollars each in the race. It was a total of $5 million spent by my opponents, and I was able to raise $1 million in that primary and was able to win that primary.

I am not complaining about the Supreme Court ruling that says a millionaire, multimillionaire, or billionaire can spend all he or she wants to spend. What I am saying is we have all these restrictions on people who have to raise money. It limits their ability to raise money. Then a wealthy candidate can waltz in out of left field with hundreds and hundreds of millions of dollars in his account and can just overwhelm their opponent, and it creates, I believe, an unfair situation.

I think it is very difficult for anyone to contend this is not an unfair situation. We can deal with it, in my view. Senator DOMENICI has given a lot of thought to it. He and I have talked for some time about this. I believe he has moved in a direction that can deal with it. We are saying individual candidates in a primary, for example, can only raise $1,000 from a contributor to combat the money that was poured in it by a wealthy opponent. I believe we have an unfair situation. It makes it difficult for candidates to run on a level playing field.

I was a former Federal prosecutor and attorney general of Alabama at the time of my campaign. I had two children in college. I had some public service experience. I talk to my record to the people of Alabama. We were able to raise enough money. I didn’t have any problem asking people for money. I was able to raise enough money to get my message out and win in a run-off in that primary.

But it really creates an unequal playing field if I am restricted to these levels of contributions. What if my opponent had not spent $1 million? What if they spent $5 million, $7 million, or $40 million? A State such as Alabama? Could they have gained enough votes to tilt in their favor while a candidate who is a public servant is subject to limited funds? I think that is quite possible. That could have occurred.

The Supreme Court, in my view, may have not been perfectly brilliant in the Buckley case in suggesting that an individual who has a lot of money has no potential for corruption. If their money is in one sector of the economy—health care, finance, high tech—if that is where their wealth is and maybe they have another billion dollars of investment, they have a lot to lose. Who says they are more or less corrupt than somebody such as the Senator from Alabama who worked as attorney general and took a State salary every day? I don’t know. But the Supreme Court has ruled that a wealthy person cannot be limited in the amount of money they can put into a campaign. We are going to live with that. That is what the law is.

Let me mention that there has been a trend in recent years of large amounts of personal wealth going into campaigns. In 1996, 54 Senate candidates and 91 House candidates each put $100,000 or more of their own personal money in the campaign through direct contributions or loans. In the 1998 general election campaign—that is a final election campaign—Senate candidates gave about $28.4 million to their own campaigns while House candidates gave close to $23 million to their campaigns. It is quite significant, and I think under the present tight financial rules on people raising money it is an unfair advantage to people who have access to unlimited funds.

Can there be any doubt why a candidate or recruitment committee for any party, Republican or Democrat, is going to look out for people who can put up $5 million in a campaign? Can that be fair to people running for office?

In the Senate races alone, about $3 billion in personal resources of the candidates themselves. This is clearly significant, and I think under the present tight financial rules on people raising money it is an unfair advantage to people who have access to unlimited funds.

This amendment, I believe, deals with that fairly. First, it talks about disclosure. Within 15 days after a candidate is required to file a declaration of candidacy under the Federal law, he or she must declare whether they intend to spend personal funds in excess of $500,000, $750,000, or even $1 million of their own money. It didn’t say they can’t do that. They can. They simply have to state an intention. I have to state and have to abide by the rule that I cannot raise more than $125,000. What is asking them to at least say how much they intend to spend? I think that is reasonable. What could be unfair about that? Then this triggers the events that occur to give the opponent of the billion-dollar candidate, or the one-hundred-millionaire candidate, a little advantage. It sort of balances the scales a little bit. It is not a lot. It is still tough to compete against a candidate who will put in $40 million or $7 million in a campaign and always win when they go to the American people.

If a wealthy candidate declares his or her intent to spend in excess of $500,000,
the opponent of that candidate can increase individual and PAC contribution limits threefold. In the present circumstance, instead of being able to ask people for only $1,000, it would be $3,000. Instead of a PAC giving $5,000, a PAC could give $15,000, to give you some chance to compete against that wealth.

If the candidate says in his declaration that he or she intends to spend more than $750,000, his or her opponent can increase individual and PAC contribution limits five times. It would be $5,000 per individual.

If some friends of mine say: JEFF Sessions is getting overwhelmed by a multimillionaire candidate, they could rally and try to go out there and help me have a fair playing field. I think some people would. They would rally under those circumstances. But under current law, they cannot help a candidate any more than the maximum contribution.

If wealthy candidates exceed $1 million in personal expenditures, under the Domenici amendment the direct party contribution limit and party coordinated expenditure limits are eliminated. Why not? There is a chance to buy advertising, pouring $1 million into a campaign, and the opponent can be left helpless. I think that is a good law.

It also has a give-back provision that any excess funds raised by the opponent of a wealthy candidate may be used only in the election cycle for which they were raised. So they couldn’t be used in the next election. Excess contributions must be returned to the contributor, if there is any left after that.

It also prohibits wealthy candidates, who incur personal loans in connection with their campaign that exceed $250,000, from repaying those loans from any contributions made to the candidate.

The PRESIDING OFFICER. The Senator from Alabama has used his 10 minutes.

Mr. SESSIONS. I ask unanimous consent to have 1 additional minute.

Mr. MCCONNELL. I yield the Senator an additional minute of my time.

Mr. SESSIONS. I know there were large contributions in this last Senate campaign from candidates of $10 million, $20 million, and other amounts of money. The winning candidates in this body contributed from their own funds. I tell you, I am glad I didn’t face a person who could write a check for $50 million, $10 million—or $5 million, for that matter. If so, I would like to be able to have a level playing field so I could stay in the ball game.

This is a fair and reasonable bill. I believe it is the right thing to do. I totally support the Domenici amendment.

I ask that I be allowed to be listed as a co-sponsor to the Domenici amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.
McCain-Feingold become the law of the land, to think twice about this amendment.

Mr. REID. Will the Senator yield for a question under his time?

Mr. DODD. I am happy to yield.

Mr. REID. I think it would. There may be some merit we can seek out at some point. We are going to be on this bill for the next 2 weeks. It seems to me, if there is value in trying to do something here, we ought to be willing to talk about it. If we come out of the box and adopt this amendment, it seems to me then it would be a major setback in what we are trying to achieve.

Mr. DOMENICI. How much time do I have remaining?

Mr. REID. Eleven minutes. Mr. DOMENICI. Eleven. I am not sure I will use all of it. I am aware that a Senator desires to get out of here quickly, and I will do my very best to accommodate the Senator.

But what I want to say to the Senate is, I have been working with Senator DeWine and others on a modification to my amendment. Frankly, I cannot modify it unless there is a consent that I be permitted to modify it. If we move to table it, and the tabling motion fails, then I can amend it. So I would hope you would not table the Domenici amendment. Because if it is not tabled, Senator DeWine and I, and others, will offer an amendment, which we will then be permitted to do, which will, essentially accomplish our objective.

It will essentially be that if somebody under this new law indicates they are going to spend $500,000 or more of their own money, then only the individual contributions are increased to $300,000 instead of $3,000 instead of $1,000—that if you are going to spend more than $1 million, it is 10 times, which is $10,000 contributions.

So if somebody was going to spend $200- or $300 million, then the $1 million cap would be $10 million. That is the extent of the changes except we have a loan payback provision which we have discussed on the floor that says, if you use your own money, then after you are in office, you cannot pay yourself back by raising the same money.

Mr. President, I think that amendment I am going to offer with Senator DeWine, which he would speak to at a later date, is a compromise amendment. I wanted to go a little further. But now what we are going to do in a substitute after the tabling motion. So there is no misunderstanding the Domenici amendment has no soft money in it. The Domenici amendment is all hard money. Essentially, it says, if you are going to spend a half million dollars of your money, then you get to raise money in return for the candidate under the 26-year-old laws. You can raise $3,000 in individual money and PACs are increased threefold. If you are going to spend $750,000 or more, it is five times. And $1 million or more, it is 10 times, as I have just indicated. In addition, we have the loan payback provisions in the bill that I have just described, and we have a provision that the hard money can come from campaigns is limited as it is under the McCain-Feingold.

Having said that, I would ask Senators who think the time has come to send not a signal but to change the law—of the multimillionaire, that they pretty much put the opponent at such odds that the opponent has no chance of raising sufficient money to run a campaign—we have seen many examples of that of late. I think it is as serious a problem as the underlying issues that are before us on McCain-Feingold. I choose to fix them. I ask Senators not to vote to table my amendment, thus giving me a chance to present a modified one that has broader support than the original Domenici amendment.

Mr. MCCAIN. Will the Senator yield?

Mr. DOMENICI. Surely.

Mr. MCCAIN. I don't want to take the floor from the Senator from New Mexico, but I have to tell you, from New Mexico, he has made substantial and probably significant and beneficial changes to his amendment. He just articulated them. We haven't had a chance to digest them to see what the impact would be. We have a long way from if the candidate exceeds $1 million, the direct party contributions and party coordinated expenditure limits are eliminated. We have to figure out exactly what all this means, I say to the Senator from New Mexico. This is legislating on the fly here.

What we would like to do, if it is agreeable to the Senator from New Mexico and the Senator from Ohio and all of us involved, is to have a chance to sit down and negotiate this with him. I agree with the Senator from New Mexico. I think he has some very good provisions, but at this time we would like to be able to examine those provisions, determine what the impact is, have some negotiations, which have been going on among our staffs. Hopefully, we could get something on which we can all agree.

I am not sure in this very short time period where the Senator’s amendment has changed rather drastically, fundamentally, when we are talking about if the candidate exceeds $1 million personal expenditures, the direct party contribution limits and party coordinated expenditure limits are eliminated—I don't frankly understand exactly the ramifications of the amendment of the Senator from New Mexico.

The PRESIDING OFFICER (Mr. Akaka). The Senator from New Mexico has the floor.

Mr. DOMENICI. I say to my friend, I am not choosing to amend my amendment. My amendment stands as it was understood by the distinguished Senator from Arizona. I am merely stating that I am asking, and I now ask unanimous consent that I be permitted to modify it.
Mr. REID. I object.

Mr. DOMENICI. All I am saying is, if you don’t table the Domenici amendment, standing there, I will offer an amendment on behalf of myself, Senator DeWine, and others which will do what I described a while ago, and you can have all the time you want to look at that amendment, debate it, and even modify it, if you would like. I ask that we leave the amendment standing so I can modify it. Has the motion to table been rescinded or the amendment?

The PRESIDING OFFICER. The motion to table can only be made at the expiration of time. The Senator has a little over 4 minutes, and the other side has 9 minutes.

Mr. DODD. Mr. President, I say to my colleague from Kentucky that we are prepared to yield back whatever time we have on this amendment. I ask unanimous consent, if I don’t have time, to yield the floor to the distinguished Senator from Arizona.

The PRESIDING OFFICER. The Senator has time. The Senator from Arizona.

Mr. McCain. I want to say again to my friend from New Mexico, we can work this out. We can do that. By the way, it is my understanding if you table your amendment, you can bring up another amendment anyway, whether it is tabled or not. If you don’t table or present amendment, then that will signal that the Senate agrees with that amendment. Obviously, I do not, nor do I believe does the majority. I emphasize again to the Senator from New Mexico, I think we have made great progress in these negotiations. We are in agreement in principle. All we need to do is work out the details of it.

Frankly, I haven’t been here nearly as long as the Senator from New Mexico, but it is a Committee of the Whole, a parliamentary procedure where you would not table somebody’s amendment that you oppose when there is going to be a follow-up amendment because we have unlimited amendments on this bill, very much unlike your Senate where we have worked out together.

Again, I am optimistic that we will work out the differences we have and it will give us all a better understanding of the amendment so we can make the best and most efficient use of our time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I say to my good friend, it is not a question of whether there is a procedure like this or not. We have established the procedure by the unanimous consent agreement we had entered into. We entered into a unanimous consent agreement that said that this amendment was to be considered unless we voted on a motion to table it and it is not tabled. We established that rule. I am asking that since that was the rule, we go ahead and not table it and let me offer an amendment with my good friend, and that will be thoroughly debated and modified.

Mr. DeWine. Will my colleague yield?

Mr. DOMENICI. I am pleased to yield.

Mr. DeWine. I thank my colleague from New Mexico. Let me urge the Members of the Senate not to vote in favor of tabling the Domenici amendment. The Senator has outlined very clearly what modification he and I wanted to make. It is a modification that is very logical. It turns this into an amendment that improves the amendment. It deals with the proportionalities of those amendments.

If Members do look at it—and they have just had the opportunity a moment ago to hear the Senator outline exactly what it is—they will find it is very rational; it is very reasonable. It is going to be held to be constitutional, and it is going to begin to deal with this tremendous problem the Senator and I have been outlining, with others. I urge my colleagues not to vote in favor of tabling. Give us this opportunity to come right back and make the changes and get this amendment passed.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. Dodd. Mr. President, just as a suggestion to my colleagues, under this unanimous consent agreement, the only way the amendment could be set aside would be, I suppose, a motion to reconsider an earlier action or withdraw the amendment. That is something on which the authors of the amendment must make a decision. It seems to me we are fairly close to something that might be agreeable. I don’t think working on the Senate to have a vote on something where it goes down and then comes back again.

It seems to me, if the authors of the amendment and the authors of the principal legislation feel as though they are fairly close to something they might agree on, it would make some sense, rather than putting the Senate through a vote, to ask unanimous consent that the amendment be withdrawn for a short while, rewrite it and then come back to something we may agree on. We may not ultimately. I don’t see the value in having the Senate march down here and cast 100 votes on something that is going to be changed or modified at some later point anyway. I urge the authors to consider that for the minute that we have before the vote must occur. It seems to me that is a more prudent way to proceed.

I yield 2 minutes, if I have them, to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. Feingold. I thank the Senator from Connecticut. I completely agree with his remarks, as well as the Senator from Arizona. I am pleased that the Senator from New Mexico has recognized that his original amendment just goes too far and there needs to be some modifications. We should try to get together and work this out.

There are a couple of items already in some of the modifications he is talking about that concern me. A tenfold increase seems to be an awfully high number. Perhaps there is another level that could work.

On the question of what the threshold would be, $500,000, many people have said it is too low a trigger for these increases. In New York or California, there is a difference. I agree with the Senator from Connecticut that the way to do this is to table this amendment and then see what kind of agreement or modification or new amendment can be agreed upon by the Senator from New Mexico and the Senator from Ohio, who genuinely care about these issues.

I share the concerns, but we need to do this in a manner that doesn’t suddenly put together an act of modification that we don’t completely understand. I ask that Members table this amendment.

Mr. McCONNELL. Mr. President, let me explain to everyone that if this amendment is tabled, the next one comes from the Democratic side of the aisle. The first opportunity to do something about one of the most pervasive problems in American politics today, the purchasing of public office by people of great wealth, will have been lost.

Yes, it is true that may get back to this later, but there are a lot of amendments seeking to be offered on this side of the aisle. I don’t know about the other side. I hope Senator Domenici’s amendment will not be tabled, giving him an opportunity at the courtesy of the Senate would give an offeror of an amendment an opportunity to modify his own amendment. Here that is being denied.

In the beginning, we got off to a good start, and now people won’t even let the offeror of an amendment modify his own amendment. Senator Domenici is trying to keep his amendment alive so he can offer a second degree which, under the agreement, would be appropriate if the motion to table is not successful, which is something normally he would have an opportunity to do in the Senate, almost as a matter of right. So what the Senator is asking for is not inappropriate. It is the only way he can modify his amendment under the circumstances.

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

The PRESIDING OFFICER. The clerk will call for a quorum. If the Senator will withhold on the quorum call, I would like to be heard.

I hear my colleague from Kentucky. The reason we object to a modification at this point is because of what the Senator from Arizona had to say. This is a complicated amendment, with four different triggers involved. It seems to me the size of States is relevant, where $500,000 in Idaho or Connecticut would provoke one response, whereas in California it is something entirely different.

The modification is being objected to for the reason that it is a complicated amendment and it is only fair that the...
authors of the bill spend a little time to look at the implications.

My suggestion of asking unanimous consent to withdraw the amendment at this point—I don’t know about the authors of the underlying bill, but I am prepared to concede that the next amendment to the Republican side and let them go first again. This is an important enough issue that we ought to try to reach out to one another, and rather than having 100 votes cast on this amendment as some bellwether of where we stand, and if there is an opportunity to reach a compromise, let’s do that, and I would concede that the next amendment be offered by the Republican side to avoid any conflict.

Mr. McCONNELL. Mr. President, if the motion to table is not agreed to, the next amendment will be the modified Domenici amendment because he will be recognized at that point for an opportunity to offer the modification that, normally, Senate comity would allow. That will be the next amendment if the motion to table is not agreed to.

Senator DOMENICI and Senator DEWINE will offer the modification they have been trying to get consent to offer and that will be the next amendment as some bellwether of an issue. We were before the modification. We were trying to reach out to one another, and rather than having 100 votes cast on this amendment, we can have an agreement on his amendment. I think it is too bad. I think it is very unfortunate.

I think it was a shame that we were not given the opportunity to modify his amendment. The Senate has spoken. I think it is too bad. I think it is very unfortunate.

Having said that, I do believe we are fairly close in negotiations. The Senator from New Mexico and I had reached an agreement that would deal with this problem. It would have been, I think, very positive. I am confident, from talking to some of my friends on the other side of the aisle, as well as friends on this side, that we still can, within a relatively short period of time, reach agreement and come back to the Senate with an amendment to which we can in fact agree, and we intend to do that.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. The practical effect means the next amendment is to be offered by the Democratic side because Senator DOMENICI was, first, denied the opportunity to modify his amendment; second, the opportunity to modify it after a motion to table failed was denied him by switching a number of Members.

The practical effect of all this, I say to everyone in the Senate, is that the next amendment is on the Democratic side under our agreement. I am curious as to what it might be.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. In light of the events that just unfolded here, we don’t have a specific amendment ready to offer at this particular point. As I understand it, there will be no more votes this evening. We encourage Members who have not made opening statements on this bill, who are here on the floor, to do so tonight, and then with some consultation between the two of us and others interested, we will try to come up with an amendment this evening to give us, I don’t know what the timeframe will be. The leader is here. I don’t know what the agenda will be, what time we will start, but
we will certainly give you ample notice ahead of time what the amendment will be.

Mr. MCCONNELL. I thought the idea behind this agreement we painstakingly entered into over a number of weeks of negotiations with the Senator from Connecticut was that there would be an opportunity for lots of amendments. Now here we are on a Monday night, getting ready—the majority leader wants us to have a vote in the morning—I am hearing that the other side doesn't want to lay down an amendment.

Mr. DODD. Mr. President, if my colleague will yield, we went through this discussion on the Domenici proposal. It may very well be that we will offer something that would accommodate what the Senator from New Mexico is proposing. If that could be worked out, that may be the next amendment. I think we might be able to do that. If we are unable to do that, obviously we have another amendment to offer right away. I know the leader indicated that on tomorrow he would like to have a vote by 12:30. If we come in at 9:30, we will have an amendment to offer, and we will be right on the subject that the leader laid out some days ago.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, just to respond to the last comment of Senator Dodd, that is the point. We want to make sure, if you are going to take advantage of the opportunity to offer an amendment tonight, fine, or we will have one the first thing in the morning. But we had an agreement that we would do these by regular order of 3 hours. So hopefully you will either have one in the morning or we will be prepared to go with one on this side.

Mr. MCCONNELL. Mr. President, since there seems to be so much interest in the Senator from New Mexico, might it not be possible for everyone to agree that Senator DOMENICI's modified amendment would be the first one up in the morning?

Mr. DODD. I object to that.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I say to the majority leader and to my friend from Kentucky that the Senator from Connecticut has been busy.

I think the amendment—and we will be happy to discuss it in more detail with the Senator from Kentucky—will be offered by Senators CORZINE, KOHL, and TORRICELLI. It will probably deal with the same subject matter that was discussed all day today.

Mr. DODD. Mr. President, I think we have done some good work today. We have some good opening statements and considered an amendment. Obviously, the people involved could do a little work this evening.

We will try to keep it pared. At 9:30 tomorrow, we will have an amendment, and we will be ready to vote on it by 12:30, before the respective conferences meet.

Mr. LOTT. Mr. President, I had prepared to offer a unanimous consent that when we come in at 9:45 in the morning the pending business would be the modified Domenici amendment. If they are going to work on this tonight, will be glad to work with you on that. Even have to keep this process going forward.

Just one thing on the substance. I think it is going to be a sad commentary if we don’t address this issue of candidates being put unlimited amounts of money in their races without the opponents having some way to at least be competitive.

I hope the Senate will find a way to come together on this issue. I know it has the support of both sides of the aisle. It is going to be a bad start of getting to a proper conclusion to this legislation if we don’t address this issue. I would encourage both sides to work on this overnight.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. MCConnell. Mr. President, I voted to table Senator DOMENICI’s amendment not because I was not sympathetic with the same. And I give him great credit for bringing up a real problem of the campaign finance system of very wealthy candidates being able to self-finance their races. That discourages a lot of otherwise very qualified people from even running for office in the first place.

I come to the Senator from New Mexico for bringing up an important issue. I did not support his amendment because I disagreed with some of the provisions in it. I believe, however, that the amendment he is likely to propose with Senator DeWINE is a far superior amendment.

I think it was very unfortunate that the Senator from New Mexico was not allowed unanimous consent to modify his amendment. That is very unusual. Members usually are allowed unanimous consent to modify their own amendments. I think it is very unfortunate that did not occur in this case. It does not bode well for the debate on this issue for us to start off like that.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. DACSHLE. Mr. President, I can certainly understand the frustration of some of our colleagues as we have attempted to work through the first day of what is an unusual unanimous consent agreement. We are used to a little more flexibility on amendments. I think when we entered into this unanimous consent agreement, our entire purpose was to ensure that we could move amendments along. That was the whole idea—that we would make sure that in the process of moving amendments along, we would accommodate Senators.

I hope that unanimous consent agreements, to demonstrate a little more practicality, could be agreed to in the future because I think we will actually accommodate rather than impede our ability to take up and address this bill in a meaningful way.

In that regard, I ask unanimous consent that I or my designee be recognized tomorrow morning as debate on the legislation is again convened in order to offer an amendment.

Mr. MCCONNELL. Reserving the right to object.

Mr. LOTT. Mr. President, if the Senator will yield under his reservation, first of all, I appreciate what Senator DASCHLE had to say about allowing Senators to modify their own amendments. We need to continue to honor that practice.

Second, I don’t see any problem with his request. If he does not act on his right, then we will be able to reclaim and move forward on our side. I don’t see a problem with that under the circumstances.

Mr. DACSHLE. Mr. President, for the information of my colleagues, in consultation with our ranking member, I suggest that our amendment will deal with the millionaires amendment.

The Durbin approach I think is one with which many of us could be comfortable. I understand they are talking now about ways in which to address some of the differences between Senators DURBIN and Senator DOMENICI. But that will be the subject of an amendment we will offer at 9:30 in the morning.

I yield the floor.

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

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with Senators permitted to speak for up to 10 minutes each.

BANKRUPTCY REFORM

Mr. GRASSLEY. Mr. President, I have a few clarifying comments regarding the bankruptcy reform bill which the Senate passed last week. During the debate on the small business provisions in S. 420, Senator KERRY erroneously characterized how the National Bankruptcy Review Commission voted on the small business changes that were contained in the bill. Senator KERRY maintained that the provisions were controversial and passed by a narrow 5-4 vote. This was not true. In fact, the National Bankruptcy Review Commission voted for these provisions by a vote of 6-1.

I also want to clarify another point in the bankruptcy legislation. Senator SCHUMER offered an amendment in committee and then on the floor that changed a provision in the bill that prohibited corporate entities in Chapter 11 from discharging fraud debts in bankruptcy. I opposed this amendment since I think that corporations should not be able to commit fraud and get away with it by filing for bankruptcy.
Nevertheless, to accommodate Senator Schumer, I reached this compromise which prohibits corporations from discharging fraud debts owed to Government entities or to plaintiffs under the False Claims Act. I want to make clear for the Record that I oppose letting corporations defraud private businesses and individuals, and then discharging those debts in bankruptcy. Hopefully, I will revisit this issue in the near future to make sure that corporate scam artists can’t use bankruptcy as a safe haven.

I also want to take this opportunity to thank a number of staff members that were especially helpful in getting this important bill passed: Rene Augustine, Makan Delirahm, and Sharon prost of Senator Hatch’s staff; Ed Haden and Brad Harris of Senator Sessions’s staff; Ed Pagano and Bruce Cohen of Senator Leahy’s staff; Jim Greene and Kristin Cabral of Senator Biden’s staff; Jennifer Leach of Senator Grassley’s staff; and Rita Lari Jochum and Kolan Davis of my staff. I also want to acknowledge my former staffer John McMickle who worked on this bill for several years. In addition, I want to thank Laura Ayoud in the Office of Senate Legislative Counsel. This bill would not have passed if it were not for the hard work and tremendous efforts of all these staff members.

Mr. President, I ask unanimous consent to print in the Record three letters from former Bankruptcy Review Commissioners. There being no objection, the material was ordered to be printed in the Record, as follows:

4TH ANNIVERSARY OF TUNISIA’S INDEPENDENCE

Mr. LIEBERMAN. Mr. President, I rise today to congratulate the people of Tunisia on the 45th anniversary of their country’s independence. Throughout our long friendship, the United States and Tunisia have shared a mutual commitment to freedom, democracy, and the peaceful resolution of conflict. Indeed, Tunisia was one of the first countries to sign a Treaty of Peace and Friendship with the new United States of America in 1797, and in turn, the U.S. was among the first to recognize Tunisia’s independence from France in 1956. Our nations have worked together on many issues of importance over the years, including the ongoing efforts for a lasting peace in the Middle East.

Tunisia and its citizens have many successful endeavors to celebrate, particularly in the area of economic development and reform. Tunisia’s high standards of living and education, and advancement of opportunities for girls and women, stand as testament to its achievements. I hope that the growth of political freedoms for all Tunisia’s people will soon equal its economic success.

As we observe this important milestone in Tunisia’s history, we look forward to continued cooperation and friendship between our nations and our people for many years to come.

Mr. INOUYE. Mr. President, I extend my warmest congratulations to the people of Tunisia as they commemorate their country’s 45th anniversary of independence. Tunisians have much to celebrate and I am proud of, and their firm resolve to fulfill their responsibilities as a republic and to govern themselves with integrity is most admirable. Tunisia has managed, in a relatively short period of time, to make significant gains on the political, economic, and social fronts.

I salute President Zine El Abidine Ben Ali for his leadership in initiating and supporting several reforms that paved the way for open government. I commend leaders from the public and private sectors for balancing the demands of economic development and social concerns. Finally, I wish to praise all the people of Tunisia for their peaceful participation in Tunisia’s remarkable journey from colony to republic.

It is my hope that as Tunisians commemorate their country’s 45 years of independence, they will also celebrate their ancient past and their unique cultural identity—formed by the confluence of Arab, Berber, African, and European influences. The country’s long and rich history has made Tunisians a resilient and resourceful people, and I am confident that the future of the country will be bright and promising. I look forward to many more years of friendship and cooperation between Tunisia and the United States.

EXTENDING THE INTERNET TAX MORATORIUM

Mr. BURNS. Mr. President, I commend the chairman of the Committee on Commerce, Science, and Transportation for holding today’s hearing, as it concerns a topic of great importance to the future development of the Internet—how to make sure that our Nation’s tax policy keeps pace with rapid technological change.

The Internet Tax Freedom Act recognized that uniformity and common sense must be brought to taxation policy on the Internet. The act placed a 3-year moratorium on State and local taxation on Internet commerce and cooperation between Tunisia and the United States.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent to print in the Record three letters from former Bankruptcy Review Commissioners. There being no objection, the material was ordered to be printed in the Record, as follows:

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Internet transactions will help to ensure that the nearly limitless potential of electronic commerce is realized.

I would like to talk on another issue arising from this debate, the broader question of whether Congress should allow the States to require all remote sellers—whether they use the medium of the Internet, or the more traditional mediums of mail order or telephone to collect sales tax on deliveries into states where the seller has no physical presence or "tax nexus."

I believe that the present rules on whether an out-of-state company should collect sales tax are, in fact, fair and reasonable. Simply stated, a company is required to collect tax on deliveries into a State if it has a presence in that State. This rule has served interstate commerce well, and importantly, has not burdened small, entrepreneurial companies with having to hire lawyers and accounts to comply with 7,600 different taxing jurisdictions, and worse still, liabilities to split from States and localities throughout the country.

I'm not prepared at this point to support any new tax collecting requirements on remote commerce. However, if this committee were to act on this broad, Wyden's approach, which requires full congressional scrutiny and a mandatory up-or-down vote by Congress before there is any new tax collecting, seems to me to be the correct course.

RETIRED PAY RESTORATION ACT OF 2001

Mr. BIDEN. Mr. President, I am pleased to be a cosponsor of the Retired Pay Restoration Act of 2001, which corrects a long-standing inequity that has resulted in a major slap in the face of our dedicated service men and women.

Current law bans so-called concurrent receipt of VA disability compensation and military retired pay. The amount of any VA disability payment to a military retiree is subtracted from the monthly retirement check. In operation, this rule seems to turn logic and common sense on its head, and its repeal is long overdue.

Let's be clear what we're talking about. This provision only applies to military retirees, those who have served their country in uniform for at least 20 years. Such retirees receive a taxable monthly pension based on their length of service and their final pay, which is determined primarily by their rank and length of service. In this regard, the military retirement pay system resembles the civil service retirement system with which we are all familiar.

VA disability compensation is completely different. VA disability compensation consists of tax-free monthly payments to veterans who served in uniform for any length of time and who, during their time in the military, incurred a service-connected disability. These monthly payments are based only on the severity of the disability and nothing else: not on the length of service, the person's rank, the active duty pay, and so on.

So at first blush, it seems that there is no logical reason why VA disability compensation should be offset against military retirement pay; they are disbursed for completely different reasons and are calculated by totally different methods.

But the incongruities of the present rules are nothing short of mind-boggling. Let us hypothesize that twins Jack and Jill sign up for the military at age 18. After 1 year in the military, Jack and Jill both incur identical knee injuries after stepping into a hole while running the obstacle course. The military disability system evaluates both Jack and Jill, confirms a mild disability in both due to intermittent swelling and locking of the knee, but determines that this disability is not severe enough to render them unfit for continued military service.

At this point, Jack and Jill decide to pursue separate paths. Jack decides to leave the military when his enlistment is up, at age 22, and joins the Federal civil service in the Defense Department as a procurement specialist. Immediately after leaving the service, Jack applies to the VA for disability compensation, which is granted, and Jack then receives monthly payments from the VA for the rest of his life. At age 55, Jack retires from the Federal civil service and begins receiving his full monthly civil service retirement check in addition to the VA disability compensation that he has been receiving all along.

Jill, on the other hand, decides to stay in the military after her injury, working as a procurement specialist. Of course, while she remains in the military, she receives no VA disability compensation, even though her twin Jack is receiving VA disability pay—albeit for the same injury all along. At age 55, Jill retires from the military, and starts to receive monthly military retirement checks. Jill applies to the VA for disability compensation based on her knee injury, and it is granted. However, when she begins to receive her VA disability checks, the amount of those checks is subtracted from her monthly military retirement pay.

How can we rationalize this disparate treatment of Jack and Jill? We can't. The only explanation is that those in uniform who suffer a service-connected disability end up being penalized for deciding to remain in the military, while those who leave the military are amply rewarded. The longer you serve in the military, the more you are penalized. Does this make sense? I don't think so.

Or let's consider another option. Twins John and Jane both enter the military at the same time, serve in the same position, and retire at the same age. Both receive the same monthly retired pay. John has incurred a service-connected injury, and after retirement, he is granted a disability compensation from the VA. Jane was never injured in the military. However, they both end up getting the same amount of pay, since John's VA disability payment is subtracted from his military retired pay. Does it make sense that we have an elaborate system for disability compensation that ends up treating the injured John and the uninjured Jane the same? I don't think so.

The logical inconsistencies of the present rules are overwhelming. It is time to repeal the provision in current law that prohibits military retirees from receiving concurrent receipt of full military retirement pay along with VA disability compensation. Those who put their lives at risk by putting on the uniform of this country, and who are then disabled as a result of their military service, must be treated fairly and awarded all the benefits they have earned and which they deserve. To do any less makes a mockery of the sacrifices of all our service men and women.

ADDITIONAL STATEMENTS

RECOGNITION OF MAJOR GENERAL J. CRAIG LARSON

Mr. HATCH. Mr. President, I want to take this opportunity to recognize an outstanding American and soldier. Major General J. Craig Larson has devoted nearly thirty-three years to the U.S. Army and Army Reserve. It is only fitting that we pay tribute to a magnificent soldier and man who has done so much for his country and the great state of Utah.

Major General Larson is the Commander of the U.S. Army 96th Regional Support Command in Salt Lake City, Utah. As much, he commands more than 6,000 Army Reservists in the six-state area of Colorado, Montana, North and South Dakota, Utah, and Wyoming.

He was drafted by the Army in 1966, and obtained the rank of Sergeant. He then attended and completed Officer Candidate School at the Ordnance Center and School in Aberdeen Proving Ground, MD. He was commissioned a Second Lieutenant in January 1968. He served nearly seven years on active duty with assignments as Assistant to the Depot Commander, Anniston Army Depot, Alabama; Commander, Company C, 702nd Maintenance Battalion, 2nd Infantry Division on the DMZ in Korea; and Assistant Director of Industrial Operations, Indiantown Gap, PA.

During his twenty-six years in the Army Reserve, he served as: Commander of the 259th Quartermaster Battalion (Petroleum Terminal and Pipeline) in Pleasant Grove, UT; Executive Officer and then Commander of the 162nd Support Group at Fort Douglas, UT; and Chief of Staff, 612th U.S. Army Reserve Command, also at Fort Douglas, UT.

In addition to his military career, he is a graduate of the Command and General Staff College and the Army War College. He is a member of the American Society for Engineering Management.

Major General Larson has been decorated with the Distinguished Service Medal, the Legion of Merit, the Meritorious Service Medal, the Defense Meritorious Service Medal, the Army Commendation Medal with three oak leaf clusters, and the Army Achievement Medal.

Major General Larson is the Commander of the 96th Regional Support Command, Utah, and the Assistant Chief of Staff for the 96th Regional Support Command, Utah. He commands more than 6,000 Army Reservists in six states and is responsible for the support of two active Army divisions and a large number of other military units in the state of Utah.

It is fitting that we pay tribute to a magnificent soldier and man who has done so much for his country and the great state of Utah.

Major General Larson is the Commander of the U.S. Army 96th Regional Support Command in Salt Lake City, Utah. As much, he commands more than 6,000 Army Reservists in the six-state area of Colorado, Montana, North and South Dakota, Utah, and Wyoming.

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Major General Larson has been decorated with the Distinguished Service Medal, the Legion of Merit, the Meritorious Service Medal, the Defense Meritorious Service Medal, the Army Commendation Medal with three oak leaf clusters, and the Army Achievement Medal.
Just prior to his current assignment, Major General Larson was the Assistant Deputy Chief of VA Staff for Logistics and Operations, U.S. Army Materiel Command in Alexandria, VA. As such he was activated in November 1996 to be Commander, Logistics Support Element, 1st Theater Army Materiel Command, in support of Operation Guardian Assistance, a humanitarian relief effort for refugees from Rwanda, Zaire, and Uganda.

Major General Larson is a native of Salt Lake City, UT and a graduate of Highland High School. He received his Bachelors Degree in Business Management from Weber State College and a Masters of Business Administration from the University of Utah. In his civilian life, Major General Larson is owner and President of Wind River Petroleum. He also serves as Chief Executive Officer of Christensen and Larson Investment Company, President of Wind River Trucking, and is currently serving on the Lake Intermountain Airport board of directors. He is married to the former Toni Eskelson of Salt Lake City—also a Highland High School graduate. They have five daughters, two sons, and eight grandchildren.

General Larson left home and the uniform on Saturday, the 24th of March 2001. His uniformed service to the Nation will be greatly missed. However, he will continue to serve his community and family as a business and civic leader and as a father and grandfather. We should take this opportunity to recognize and honor Major General J. Craig Larson, a true American.

HONORING MARY HICKEY

Mr. JOHNSON. Mr. President, I rise today to publicly commend the work of Ms. Mary Hickey of Aberdeen, SD, for her over twenty years of outstanding service on behalf of the taxpayers of South Dakota. As an employee of the Internal Revenue Service, Mary has been the absolute model of a public servant and an invaluable asset to my office during the last several years. It is with regret that I announce that she will be leaving South Dakota and moving to Nebraska, where I’m sure she will continue her exemplary service.

Mary began her career with the IRS in 1980 as a Contact Service Representative in SD. She became the Tax Auditor in 1986, and in 1996 she was promoted to Problem Resolution Officer in Aberdeen. During her many years of service to the citizens of South Dakota, she has provided outstanding assistance, helping to make sense of what can often be a complex federal bureaucracy. On more than one occasion, I’ve heard my staff raving about the amount of time, commitment, and cooperation Mary put forth to serve and represent the taxpayers of South Dakota.

Mary’s accomplishments are numerous. During the last few years, Mary developed new and innovative techniques to aid in the restructuring of the Taxpayer Advocate Service, a project of the IRS’ Problem Resolution Office. For all of her outstanding work, Mary has received numerous, well-deserved IRS awards and accolades. Mary also excels in her community, and is active with the United Way of Northeastern South Dakota, having served as the Board Secretary for the past four years. As Board Secretary, Mary participates in oversight of the organization and has helped to raise over $900,000 annually to support 19 local charities.

It is an honor for me to share Mary’s accomplishments with my colleagues and to publicly commend her for serving South Dakota so excellently. Alas, South Dakota’s loss is Nebraska’s gain and I’m sure she will provide that state with the same outstanding performance she has demonstrated here.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer will read to the Senate messages from the President of the United States submitting sundry withdrawals and nominations which were referred to the appropriate committees.

(The nominations and withdrawals received today are printed at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time, and referred by unanimous consent, and referred as indicated:

By Mr. HATCH:
S. 560. A bill for the relief of Rita Mirembe Revell (a.k.a. Margaret Rita Mirembe); to the Committee on the Judiciary.

By Ms. COLLINS:
S. 561. A bill to provide that the same health insurance premium conversion arrangement afforded to Federal employees be made available to Federal annuitants and members and retired members of the uniformed services; to the Committee on Governmental Affairs.

By Mr. REID (for himself, Mr. DASCHLE, Mr. KENNEDY, Mr. DODD, Mr. GRAHAM, Mr. SCHUMER, Mr. REED, Mr. ENYARD, Mr. CLINTON, Mr. CORZINE, Mr. DURBIN, and Mrs. BOXER):
S. 562. A bill to amend the Immigration and Nationality Act with respect to the record of admission for permanent residence in the case of certain aliens; to the Committee on the Judiciary.

By Mr. ENYARD (for himself and Mr. GREIHO):
S. 563. A bill to amend the Social Security Act to require Social Security Administration publication of critical information relating to the future financing shortfalls of the social security program, to require the Commissioner of Social Security to provide Congress with an annual report on the social security program, and for other purposes; to the Committee on Finance.

By Mr. ROCKEFELLER:
S. 561. A bill to amend section 1713 of title 38, United States Code, to provide continuing eligibility for medical care under that section for veterans who become eligible for hospital insurance benefits under part A of title XVIII of the Social Security Act by turning 65; to the Committee on Veterans’ Affairs.

By Mr. DODD (for himself, Mr. DASCHLE, Mr. INOUYE, Mr. DAYTON, Mr. KERRY, and Mr. KENNEDY):
S. 563. A bill to establish a Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; to the Committee on Rules and Administration.

By Mr. HOLLINGS:
S. 558. A bill to amend the Internal Revenue Code of 1986 to provide a 10 percent individual income tax rate for taxable years beginning in 2001 and a payroll tax credit for those taxpayers who have no income tax liability in 2001; to the Committee on Finance.

By Mr. SESSIONS:
S. 567. A bill to amend the Internal Revenue Code of 1986 to provide capital gain treatment under section 631(b) of such Code for outright sales of timber by landowners; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were introduced, read, and referred (or acted upon), as indicated:

By Mr. BINGAMAN:
S. Con. Res. 26. A concurrent resolution authorizing the Rotunda of the Capitol to be used on July 18, 2001, for a ceremony to present Congressional Gold Medals to the original 29 Navajo Code Talkers; to the Committee on Rules and Administration.

ADDITIONAL COSPONSORS

S. 22
At the request of Mr. HAGEL, the names of the Senator from Colorado (Mr. ALLARD) and the Senator from Ohio (Mr. VONDRIECH) were added as cosponsors of S. 22, a bill to amend the Federal Election Campaign Act of 1971 to provide meaningful campaign finance reform through requiring better reporting, decreasing the role of soft money, and increasing individual contribution limits and for other purposes.

S. 152
At the request of Mr. GRASSLEY, the name of the Senator from Nevada (Mr. ENZIGN) was added as a cosponsor of S. 152, a bill to amend the Internal Revenue Code of 1986 to provide the 60-month limit and increase the income limitation on the student loan interest deduction.
At the request of Mr. Bingaman, the name of the Senator from South Dakota (Mr. Daschle) was added as a co-sponsor of S. 155, a bill to amend title 5, United States Code, to eliminate an inequity in the applicability of early retirement eligibility requirements to military reserve technicians.

At the request of Mr. Reid, the name of the Senator from Maryland (Ms. Mikulski) was added as a co-sponsor of S. 170, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

At the request of Mrs. Murray, her name was added as a co-sponsor of S. 170, supra.

At the request of Mr. Biden, the name of the Senator from Virginia (Mr. Allen) was added as a co-sponsor of S. 256, a bill to amend the Internal Revenue Code of 1986 to provide incentives to expand health care coverage for individuals.

At the request of Mr. Sessions, the name of the Senator from Indiana (Mr. Bayh) was added as a co-sponsor of S. 289, a bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives for education.

At the request of Mr. McCain, the name of the Senator from Nevada (Mr. Reid) was added as a co-sponsor of S. 319, a bill to amend title 49, United States Code, to ensure that air carriers meet their obligations under the Airline Customer Service Agreement, and provide improved passenger service in order to meet public convenience and necessity.

At the request of Mr. Shelby, the name of the Senator from Missouri (Mr. Bond) was added as a co-sponsor of S. 359, a bill to amend title 10, United States Code, to provide eligibility for members enlisting in a regular component of the Armed Forces to enroll for advanced training in the Senior Reserve Officers' Training Program; to increase the maximum age authorized for participation in the Reserve Officers' Training Corps financial assistance program; and for other purposes.

At the request of Mrs. Murray, the name of the Senator from Florida (Mr. Graham) was added as a co-sponsor of S. 366, a bill to amend the Agricultural Trade Act of 1978 to increase the amount of funds available for certain agricultural trade programs.

At the request of Mr. Johnson, the name of the Senator from Georgia (Mr. Miller) was added as a co-sponsor of S. 278, a bill to restore health care coverage to retired members of the uniformed services.

At the request of Mr. McCain, the names of the Senator from Nevada (Mr. Reid) and the Senator from West Virginia (Mr. Rockefeller) were added as co-sponsors of S. 284, a bill to amend the Internal Revenue Code of 1986 to provide incentives to expand health care coverage for individuals.

At the request of Mr. Sessions, the name of the Senator from Indiana (Mr. Bayh) was added as a co-sponsor of S. 289, a bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives for education.

At the request of Mr. McCain, the name of the Senator from Nevada (Mr. Miller) was added as a co-sponsor of S. 459, a bill to amend the Internal Revenue Code of 1986 to reduce the tax on vaccines to 25 cents per dose.

At the request of Ms. Snowe, the name of the Senator from Louisiana (Ms. Landrieu) was added as a co-sponsor of S. 484, a bill to amend part B of title IV of the Social Security Act to create a grant program to promote joint activities among Federal, State, and local public child welfare and alcohol and drug abuse prevention and treatment agencies.

At the request of Mr. Graham, the name of the Senator from Florida (Mr. Nelson) was added as a co-sponsor of S. 525, a bill to expand trade benefits to certain Andean countries, and for other purposes.

At the request of Mr. Campbell, the name of the Senator from Wisconsin (Mr. Kohl) was added as a co-sponsor of S. 531, a bill to establish a Federal interagency task force for the purpose of coordinating actions to prevent the outbreak of bovine spongiform encephalopathy (commonly known as "mad cow disease") and foot-and-mouth disease in the United States.

At the request of Mr. Wellstone, the name of the Senator from Maryland (Mr. Sarbanes) was added as a co-sponsor of S. 543, a bill to provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits.

At the request of Mr. Bingaman, the name of the Senator from Colorado (Ms. Snowe) was added as a co-sponsor of S. Con. Res. 8, a concurrent resolution recognizing the social problem of child abuse and neglect, and supporting efforts to enhance public awareness of it.

At the request of Mr. Campbell, the name of the Senator from North Dakota (Mr. Dorgan) was added as co-sponsor of S. Con. Res. 14, a concurrent resolution expressing the sense of Congress that there should continue to be parity between the adjustments in the compensation of members of the uniformed services and the adjustments in the compensation of civilian employees of the United States.

At the request of Mr. Sarbanes, the name of the Senator from Massachusetts (Mr. Kerry) was added as a co-sponsor of S. Con. Res. 17, a concurrent resolution recognizing the social problem of child abuse and neglect, and supporting efforts to enhance public awareness of it.

At the request of Mr. Hollings, the name of the Senator from Nevada (Mr.
S2474

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REID) was added as a cosponsor of S. J. Res. 4, a joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections.

S. RES. 44

At the request of Mr. COCHRAN, the names of the Senator from Rhode Island (Mr. REED), the Senator from Utah (Mr. BENNETT), the Senator from Maryland (Mr. SARBANES), the Senator from Virginia (Mr. WARNER), the Senator from Louisiana (Mr. BREAUX), and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. Res. 44, a resolution designating each of March 2001, and March 2002, as “Arts Education Month.”

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH:

S. 560. A bill to provide the relief of Rita Mirembe Revell (a.k.a. Margaret Rita Mirembe); to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise today to introduce a private relief bill for Rita Mirembe Revell. Rita is a 15-year-old child from Uganda who was brought to this country in 1994. When Rita was 18 months old she was left with the Daughters of Charity Society, a Catholic organization in Kampala, Uganda. Rita was an orphan, abandoned by her family.

Rita has resided in the United States under a student visa since 1994. As an orphan the only parents she has ever known are her American guardians, who have sponsored Rita since she was three years old. They want very much to adopt Rita, but they have been unable to get around the mess of international red tape. The Ugandan Government has very strict policies concerning adoption by foreign nationals. Now as Rita approaches her 16th birthday she is in danger of being deported. Rita has formed an intimate bond with her American parents, who hope to complete the adoption as soon as possible. Papers for adoption have already been filed, while there are bureaucratic difficulties, the adoption is not contested by any party.

Understandably, the family is concerned that Rita will be deported before their adoption is finalized. This bill simply seeks permanent residency so that she might remain with the only parents she has ever known while her adoption becomes final. Other immigration scenarios would require Rita to return to an unsafe country for an unknown period of time. She has no relatives in Uganda. Her new life is in California where she was recently admitted to Loretto High School, an outstanding college preparatory high school.

This bill gives Rita permanent resident status, which will allow her to remain in the country while the adoption process continues. It allows Rita to stay with her American parents in the country that she now calls home. The bill also offers the comfort of certainty for her parents. I hope that we can move quickly to grant this relief.

By Ms. COLLINS:

S. 561. A bill to provide that the same health insurance premium conversion arrangements afforded to Federal employees be made available to Federal annuitants and members and retired members of uniformed services; to the Committee on Governmental Affairs.

Ms. COLLINS. Mr. President, today I am introducing legislation to extend to Federal retirees and both active and retired military personnel the same health insurance premium conversion benefits allowed to current civilian Federal employees. This legislation directly affects the Office of Personnel Management to establish a system allowing those who participate in the Federal Employees Health Benefits Program, FEHBP, to pay their health insurance premiums from pre-tax income.

The practice of allowing health care participants to use pre-tax income to pay their health insurance premiums is often mentioned as a way of recognizing the importance of adequate, affordable health insurance. This system is called premium conversion. Last year, the Office of Personnel Management recognized this concept by establishing a plan to allow most employees of the executive, legislative and judicial branches to participate in premium conversion.

Many Federal retirees also participate in the FEHBP program and as a matter of fairness should be extended the opportunity to participate in premium conversion. In addition, the military currently has a separate health care system, but it is exploring offering health benefits under FEHBP, and therefore many employees or retirees who do participate in FEHBP should also be allowed premium conversion.

I have heard from Federal retirees in Maine who have pointed out the unfairness of not including retired Federal employees in the premium conversion system. This legislation will address this inequity.

I urge my colleagues to review and support this important legislation.

By Mr. REID (for himself, Mr. DACSHLE, Mr. KENNEDY, Mr. DODD, Mr. GRAHAM, Mr. SCHUMER, Mr. REED, Mr. KERRY, Mrs. CLINTON, Mr. CORZINE, Mr. DURBIN, and Mrs. BOXER):

S. 562. A bill to amend the immigration and Nationality Act with respect to the record of admission for permanent resident in the case of certain aliens; to the Committee on the Judiciary.

Mr. REID. Mr. President, family reunification is the cornerstone of our immigration policy. It is truly one of the most visible areas in government policy in which we support and strengthen family values.

Family unification translates into strong families and strong families build strong communities. For that reason I am introducing the Working Families Registry Act.

This bill would allow immigrants who have been working and raising families in the country since and before 1986 to apply for permanent residence.

In my home State of Nevada I have met with people who everyday fear being deported and separated from their families. They are married to Americans, have American children and have worked and been paying taxes for many years. They help and do not harm our industry and our economy.

A change in the date of registry would help these families. This bill would solve the problem of immigrants who have been paying taxes, who have feared being deported and separated from their families.

The Working Families Registry Act would update a provision of immigration law known as “Mail Order Brides.”

The registry provision originated in a 1929 law and in 1958 that law became available to foreigners who had entered the country illegally or who had overstayed. This criteria remains today and sets a required date for which continuous residence must be shown in order to qualify for permanent U.S. residency. The date of registry currently sits at 1972, and was last adjusted in 1986. My legislation would update the date of registry from 1972 to 1986. A change in the date of registry is necessary.

First, it would address the uncertainty of paying immigrants who would qualify for residence under this bill. Many of these immigrants live in fear of being separated from their families, having their worker’s permits stripped and their residency status revoked.

Secondly, the legislation would help strengthen the immigrant contributions to our national economy, tax base, and social fabric. The guaranteed benefits of residence (e.g., access to basic health care and education) provide for a more productive and effective workforce.

Third, we recognize today, as so many legislators did in the past that immigrants who have remained in the country for an extended period of time are highly unlikely to be deported.

Fourth, if an update of the registry is not achieved, the validity of this concept will be meaningless when this issue emerges in the future.

Finally, Americans care about this issue.

A recent poll conducted by the National Immigration Forum found that 55 percent of Americans strongly favor legalizing a limited number of undocumented immigrants. That is, those families with children, who have raised their families and paying their taxes—and who can prove they have been in the United States for more than 5 years.
I believe it is in America’s interest to pass The Working Families Registry Act.

Immigrants’ relationships with the United States are predicated by the recognition of America’s greatness. And, keeping families together, keeps America great.

Please join my efforts to make this bill law, as we continue to seek ways to keep America’s working families together.

By Mr. ROCKEFELLER:

S. 564. A bill to amend section 1713 of title 38, United States Code, to provide continuing eligibility for medical care under that section for individuals who become eligible for hospital insurance benefit under part A of title XVIII of the Social Security Act by turning 65; to the Committee on Veterans’ Affairs.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

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

SECTION 1. CONTINUING ELIGIBILITY FOR BENEFITS UNDER CHAMPVA OF INDIVIDUALS WHO BECOME ELIGIBLE FOR HOSPITAL INSURANCE BENEFITS UNDER THE SOCIAL SECURITY ACT BY TURNING 65.

Section 1713(d) of title 38, United States Code, is amended—

(1) by inserting “(2)” before “Notwithstanding;”;

(2) by inserting before paragraph (2), as designated by paragraph (1) of this section, the following new paragraph (1):

“(1) Notwithstanding section 1086(d)(1) of title 10 or any other provision of law, an individual eligible for medical care under this section who is also entitled to hospital insurance under part A of title XVIII of the Social Security Act by reason of being 65 years of age or older shall not lose eligibility for medical care under this section by virtue of enrolment to such hospital insurance benefits.”.

By Mr. DODD (for himself, Mr.

S. 565. A bill to establish the Commission Voting Rights and Procedures to study and make recommendations regarding election technology, voting, election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities to improve the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; to the Committee on Rules and Administration.

Mr. DODD. Mr. President, today I am introducing legislation to address some of the glaring problems that occurred in the 2000 elections with regard to technology and election administration, The Equal Protection of Voting Rights Act of 2001, and companion legislation introduced in the House by Congressman JOHN CONyers, will provide additional funds, to state and local election officials to ensure that Federal elections are conducted in a manner that encourages participation and facilitates voting by all Americans in a nondiscriminatory manner.

The right to vote is the cornerstone right in a Democracy. In the words of Thomas Paine, it is “the primary right by which other rights are protected.” Thirty-six years ago last week, on March 15, 1965, President Lyndon Johnson convened a Joint Session of Congress to call for passage of what ultimately became the Voting Rights Act. President Johnson spoke plainly and forcefully that evening, “All Americans,” he said, “must have the right to vote and they must have it right all. All Americans must have the privileges of citizenship regardless of race. And they are going to have those privileges of citizenship regardless of race.”

Yet the second message of this last election is that the privileges of citizenship have yet to be fully guaranteed to all Americans. Nor are the barriers to exercising this fundamental right limited to race. Inaccessible polling places and voting booths disenfranchise the disabled and blind across this country. Complicated instructions and a lack of trained personnel discouraged language minorities and the elderly from fully exercising their right to vote. And even if voters were able to get to the polling place, read the ballot and cast it, antiquated technology and insufficient machinery denied Americans of all races, languages, and physical abilities the right to have their vote counted. In short, what happened last November was an set off alarms across this Nation that threaten to undermine the integrity of our system of Democracy.

The fact is, there is a fundamental flaw in our Federal elections system—and that flaw is the lack of federal direction, leadership, and resources provided to the States and localities to meet their responsibility as the administrators of Federal elections. What we learned last November is that it is not good enough to guarantee a good right to vote, if procedures and technology prevent individuals from exercising that right. And it will take more than just the latest technology, or a new “mouse-trap” to fix the problem.

The legislation Congressmen CONyers and I are introducing—The Equal Protection of Voting Rights Act of 2001—is intended to secure the rights of all Americans to participate in our Democracy, by establishing 3 simple national requirements for Federal elections: (1) that states provide for provisional voting; and (3) that states provide sample ballots and voting instructions to voters prior to election day. These requirements must be implemented by the 2004 federal elections, and this legislation provides funding to States and localities to fund the costs of implementing these requirements.

This legislation also creates a temporary Commission to study numerous electin reform issues such election systems and ballot designs, access for the disabled, voter intimidation, access for any other military absentee voters, the feasibility of a national holiday, and alternative methods of voting to facilitate participation. Within 1 year of enactment, the Commission will adopt a final report, along with recommendations for best practices in the areas of convenient, accessible, nondiscriminatory election systems that accommodate voters with disabilities, the blind, and the limited-English speaking. The Commission will also make recommendations for how the Federal government, on an ongoing basis, can best provide assistance to State and local governments. Finally, the Commission will issue recommendations for best practices which will increase voter registration, the accuracy of voter rolls, improve voter education and the training of election personnel and volunteers.

Finally, my legislation provides grant money, administered by the Department of Justice, to states and localities to implement the 3 national requirements for the 2004 and subsequent elections. In order to encourage the States and localities to act to improve voting systems and election administration procedures prior to the 2004 elections, the bill allows States and localities to apply for grants to replace voting equipment and technology and make it accessible to those with disabilities, the blind, and those with limited-English proficiency, to implement administrative procedures to increase participation and reduce disenfranchisement of minorities; to educate voters and train election personnel and volunteers; and to implement recommendations of the Commission. To be eligible for grant funds, a State must submit a plan providing for uniform, nondiscriminatory voting systems that ensure accessibility for all voters; provides for the accuracy of voting records; and provides for voter education and personnel training.

The Equal Protection of Voting Rights Act of 2001 is endorsed by the following organizations: The National Association for the Advancement of Colored People (NAACP); the AFL-CIO; the National Federation of the Blind; the National Council of La Raza; the American Civil Liberties Union; and the Leadership Conference on Civil Rights.

The issues highlighted in the last election are not a Democratic or a Republican problem. These are American problems and the solutions to these problems must be, appropriately, nonpartisan to succeed.
The Committee on Rules and Administration, on which I serve as Ranking Member, has already held one day of hearings on the topic of Election Reform. What became clear from those hearings is that there is a bipartisan recognition that States and localities need assistance in order to conduct elections efficiently, and effectively, administer Federal elections on a nondiscriminatory basis. I would submit that such assistance needs to take the form of both Federal election requirements for nondiscriminatory, inclusive, voter-friendly systems, provisional voting, and sample ballot and voting instructions, as well as the financial resources to implement such requirements.

I stand ready to work with colleagues on both sides of the aisle to fashion bipartisan legislation to ensure that all citizens can participate in this Democracy. I urge my colleagues to cosponsor this legislation and look forward to additional hearings in the Rules Committee on this and other election reform proposals.

I ask unanimous consent that a section-by-section analysis of the bill be included in the RECORD following my written remarks.

The hearing being in order, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF EQUAL PROTECTION OF VOTING RIGHTS ACT OF 2001

TITLE I—ESTABLISHMENT OF COMMISSION ON VOTING RIGHTS

Sec. 101.—Establishment of the Commission.

Sec. 102.—Membership of the Commission.

Sec. 103.—Duties of the Commission.

(a) Study.—The Commission shall conduct a study of the following issues: election technology and systems; design, uniformity, and accessibility of ballots; access to ballots and polling places for the disabled/vision impaired/limited-English speaking; yield the broadest participation; and produce accurate results.

(b) Recommendations.—The Commission shall develop recommendations of best practices for voting systems.

Sec. 104.—Termination of the Commission.

Sec. 105.—Commission Personnel Matters.

Sec. 106.—Termination of the Commission.

Sec. 107.—Authorization of Appropriations for the Commission.

Sec. 108.—Termination of the Commission.

Sec. 109.—Construction Provisions.

Sec. 110.—Seals.

Sec. 111.—Enforcement of Commission Provisions.

Sec. 112.—Subpoenas.

Sec. 113.—Compliance.

Sec. 114.—Prohibitions.

Sec. 115.—Civil Penalties.

Sec. 116.—Remedies.

Sec. 117.—Penalties for Violations.

Sec. 118.—Provisional Voting.

Sec. 119.—Sample Ballots.

Sec. 120.—Voter Registration.

Sec. 121.—Voter Turnout.

Sec. 122.—Voter Protection.

Sec. 123.—Voter Access.

Sec. 124.—Voter Assistance.

Sec. 125.—Voter Education.

Sec. 126.—Voter Registration.

Sec. 127.—Voter Participation.

Sec. 128.—Voter Protection.

Sec. 129.—Voter Assistance.

Sec. 130.—Voter Education.

Sec. 131.—Voter Registration.

Sec. 132.—Voter Turnout.

Sec. 133.—Voter Protection.

Sec. 134.—Voter Assistance.

Sec. 135.—Voter Education.

Sec. 136.—Voter Registration.

Sec. 137.—Voter Turnout.

Sec. 138.—Voter Protection.

Sec. 139.—Voter Assistance.

Sec. 140.—Voter Education.

Sec. 141.—Voter Registration.

Sec. 142.—Voter Turnout.

Sec. 143.—Voter Protection.

Sec. 144.—Voter Assistance.

Sec. 145.—Voter Education.

Sec. 146.—Voter Registration.

Sec. 147.—Voter Turnout.

Sec. 148.—Voter Protection.

Sec. 149.—Voter Assistance.

Sec. 150.—Voter Education.

Sec. 151.—Voter Registration.

Sec. 152.—Voter Turnout.

Sec. 153.—Voter Protection.

Sec. 154.—Voter Assistance.

Sec. 155.—Voter Education.

Sec. 156.—Voter Registration.

Sec. 157.—Voter Turnout.

Sec. 158.—Voter Protection.

Sec. 159.—Voter Assistance.

Sec. 160.—Voter Education.

Sec. 161.—Voter Registration.

Sec. 162.—Voter Turnout.

Sec. 163.—Voter Protection.

Sec. 164.—Voter Assistance.

Sec. 165.—Voter Education.

Sec. 166.—Voter Registration.

Sec. 167.—Voter Turnout.

Sec. 168.—Voter Protection.

Sec. 169.—Voter Assistance.

Sec. 170.—Voter Education.

Sec. 171.—Voter Registration.

Sec. 172.—Voter Turnout.

Sec. 173.—Voter Protection.

Sec. 174.—Voter Assistance.

Sec. 175.—Voter Education.

Sec. 176.—Voter Registration.

Sec. 177.—Voter Turnout.

Sec. 178.—Voter Protection.

Sec. 179.—Voter Assistance.

Sec. 180.—Voter Education.

Sec. 181.—Voter Registration.

Sec. 182.—Voter Turnout.

Sec. 183.—Voter Protection.

Sec. 184.—Voter Assistance.

Sec. 185.—Voter Education.

Sec. 186.—Voter Registration.

Sec. 187.—Voter Turnout.

Sec. 188.—Voter Protection.

Sec. 189.—Voter Assistance.

Sec. 190.—Voter Education.

Sec. 191.—Voter Registration.

Sec. 192.—Voter Turnout.

Sec. 193.—Voter Protection.

Sec. 194.—Voter Assistance.

Sec. 195.—Voter Education.

Sec. 196.—Voter Registration.

Sec. 197.—Voter Turnout.

Sec. 198.—Voter Protection.

Sec. 199.—Voter Assistance.

Sec. 200.—Voter Education.

Sec. 201.—Establishment of Grant Program.

Sec. 202.—Establishment of Grant Program.

Sec. 203.—General Policies and Criteria for the Approval of Applications of States and Localities; Requirements of State Plans.

(a) General Policies.—The Attorney General, in consultation with the Federal Election Administration, establishes general policies for grant applications.

(b) Criteria.—The Attorney General establishes criteria for State plans; State plans must include each of the following:

(1) uniform nondiscriminatory voting systems within the State for election administration and technology that—

(i) meet the national requirements for voting systems, provisional voting, and sample ballots; (ii) provide access for the disabled, the vision impaired, and voters of limited English proficiency; (iii) provide ease of voting, including accuracy, non-intimidation, and non-discrimination; (iv) ensure compliance with the Voting Accessibility for the Elderly and Handicapped Act; (v) ensure compliance with the Voting Rights Act; (vi) ensure compliance with the National Voter Registration Act; (vii) ensure access for overseas and absent military voters; (B) provide for accuracy of records and prevent purging that will result in legal voters being eliminated; (C) provide for voter education and election worker training; (D) provide an effective means of notifying voters of their rights; and (E) provide a timetable for meeting the elements of the plan.

Sec. 204.—Submission of Application of States and Localities.

(a) Submission of Applications by States.—The chief executive office of the State submits the grant application along with the state plan, which is subject to State and local government officials and must make available to the public for review and comment before submission.

(b) Submission of Applications by Localities.—If a State has submitted an application under (a), a locality may submit a grant application that is consistent with the State plan, does not duplicate funding received under the State application.

Sec. 205.—Approval of Applications of States and Localities.

Sec. 206.—Federal Matching Funds.

The Attorney General shall pay the Federal share of grants; Federal share.—In general, the Federal share is 90% for State and local government officials, but the Attorney General may waive that amount and increase the Federal share; Incentive for Early Action.—The Federal share shall be 90% for applications received by March 1, 2002; and Reimbursement for Cost of Meeting Requirements.—100% for costs incurred to meet the national requirements under Title III.

Sec. 207.—Audits and Examinations of States and Localities.

The Attorney General, in consultation with the Federal Election Commission, shall specify what records grant recipients must maintain in order to obtain funds.

Sec. 208.—Reports to Congress and the Attorney General.
The Attorney General submits reports to the Congress annually starting in 2003 describing the activities funded by the grants and any recommendations for legislative or administrative changes and grant recipients shall submit any reports to the Attorney General as the Attorney General considers appropriate.

Sec. 209.—Definitions of State and Local Government

The term “State” refers to the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam and the United States Virgin Islands’ the term “locality” means a political subdivision of a State.

Sec. 210.—Authorization of Appropriations.

(a) Authorization.—There are authorized to the Department of Justice and the Federal Election Commission for FY 2002, 2003, 2004, 2005 and 2006, such sums as are necessary for awarding grants and paying administrative expenses and carrying out the provisions of the Act.

(b) Supplemental Appropriations.—Supplemental appropriations for FY 2001 are authorized.

TITLE III—REQUIREMENTS FOR ELECTION ADMINISTRATION

Sec. 301.—Uniform and Nondiscriminatory Requirements for Election Technology and Administration

(a) Voting Systems.—Each voting system used in a Federal election shall meet the following requirements:

(1) shall permit the voter to verify and correct votes selected before the ballot is cast and tabulated;

(2) shall notify the voter of the effects of casting a vote for a candidate [over votes] and allow the voter to correct the ballot before it is cast and tabulated;

(3) shall notify the voter of the effects of not voting for any of the candidates [under votes] and allow the voter to correct the ballot before it is cast and tabulated;

(4) shall produce an audit trail;

(5) shall be accessible for individuals with disabilities and other individuals with special needs, including providing nonvisual access for the blind and visually impaired, which ensures the same opportunity for access and participation (including privacy and independence) as for other voters, and provides the language accessibility for voters with limited English proficiency; and

(6) has an error rate in counting and tabulating ballots that does not exceed the current error rate standards established by the Voting Systems Standards of the Office of Election Administration of the Federal Elections Administration.

(b) Provisional Voting.—Each State must provide for provisional voting in a Federal election so that if the name of a voter who declares to be a registered eligible voter does not appear on the official list, or if it is otherwise asserted that the individual is not eligible to vote—

(1) an election official shall notify the individual that the voter may cast a provisional ballot;

(2) the individual shall be permitted to cast a vote upon written affirmation, before an election official, by the individual that he/she is eligible to vote;

(3) an election official shall transfer the ballot to the appropriate State or local official for prompt verification;

(4) if the appropriate State or local official verifies the affirmation, the vote shall be tabulated; and

(5) the individual shall be notified in writing of the final disposition of the declaration and treatment of the vote.

(c) Sample Ballot.—(1) Not later than 10 days before a Federal election, the appropriate election official shall mail a sample version of the ballot to each registered voter, along with—

(A) information on the date of the election and the polling hours;

(B) instructions on how to cast a vote on the ballot;

(C) general information on voting rights under Federal and applicable State laws and instructions on how to effectuate those rights.

(2) Publication and Posting.—Not later than 10 days before a Federal election, the sample ballot used in each election shall be published in a newspaper of general circulation and posted publicly at each polling place.

Sec. 302.—Guidelines and Technical Specifications

(a) Voting Systems Requirement Specifications.—The Office of Election Administration of the Federal Election Commission shall develop national Voting Systems Specifications with respect to the voting systems requirement under 301.

(b) Provisional Voting Guidelines.—The Civil Rights Division of the Department of Justice shall develop initial guidelines with respect to the provisional voting requirement under 301.

(c) Sample Ballot Guidelines.—The Civil Rights Division of the Department of Justice shall develop initial guidelines with respect to the sample ballot requirement under 301.

Sec. 303.—Requiring States to Meet Requirements

(a) In General.—A State or locality must meet the requirements for voting systems, provisional voting and sample ballots with respect to the regularly scheduled election for Federal office held in the State in 2004, except that if procedures and technical specifications have not been published, such guidelines and specifications do not have to be complied with until published.

(b) Treatment of Activities Relating to Voting Systems Under Grant Program.—If a State has received grant funds to purchase or modify voting systems in accordance with a state plan, the State shall be deemed to meet the requirement of section 301(a).

Sec. 304.—Enforcement by Attorney General

The Attorney General may bring a civil action for appropriate relief (including declaratory or injunctive relief) as may be necessary to carry out this title.

TITLE IV—MISCELLANEOUS

Sec. 401.—Relationship to Other Laws

(a) In General.—nothing in this Act may be construed to authorize or require conduct prohibited under the following laws, or supersede, restrict, or limit such laws:

(1) The National Voter Registration Act of 1993;

(2) The Voting Rights Act of 1965;

(3) The Voting Accessibility for the Elderly and Handicapped Act;

(4) The Uniformed and Overseas Citizens Absentee Voting Act;


(b) No Effect on Preclearance or Other Requirements Under Voting Rights Act.—the approval by the Attorney General of a State’s grant application shall not be considered to have any effect on requirements for preclearance under section 5 of the Voting Rights Act of 1965 or any other requirements of such Act.

By Mr. HOLLINGS:

S. 566. A bill to amend the Internal Revenue Code of 1986 to provide a 10 percent individual income tax rate for taxable years beginning in 2001 and a payroll tax credit for those taxpayers who have no income tax liability in 2001; to the Committee on Finance.

Mr. HOLLINGS. Mr. President, I recently introduced, S. Con. Res. 20, a one-year budget proposal which included in it a one percent tax cut if either: (1) a true surplus materializes, or (2) we enter a recession. It is now apparent the economy is on a downturn and there is no good reason to await action. That is why I am introducing this proposal to cut the tax rate by $55 billion to stimulate the economy. Any tax cut designed for economic stimulus should be about one percent of GDP. The tax cut will reduce income taxes and payroll taxes as follows:

The 25 million taxpayers who pay payroll taxes but do not qualify for income tax cuts will receive up to $500 in payroll tax cuts.

This plan reaches approximately 120 million taxpayers, thus providing relief to more people than any other proposal to date. If passed, this proposal will provide immediate relief by sending a check to these 120 million taxpayers by July 1, 2001.

By Mr. SESSIONS:

S. 567. A bill to amend the Internal Revenue Code of 1986 to provide capital gain treatment under section 68(b) of such Code for outright sales of timber by landowners; to the Committee on Finance.

Mr. SESSIONS. Mr. President, I rise today to introduce legislation which will simplify and update a provision of the tax code that affects the sale of timber. It is both a simplification and clarification measure and a fairness measure. I call it the Timber Tax Simplification Act.

Under current law, landowners that are occasional sellers of timber are often classified by the Internal Revenue Service as “dealers.” As a result, the small landowner is forced to choose, because of the tax code, between two different methods of selling their timber. The first method, “lump sum” sales, provides for good business practice but is subject to a high income tax. The second method, “pay-as-cut” sales, allows for lower capital gains tax treatment, but often results in an under-realization of the fair value of the contract. Why, one might ask, do these conflicting incentives exist for our nation’s timber growers?

Earlier in this century, outright, or “lump sum”, sales on a cash in advance, sealed basis, were associated with a “cut and run” mentality that did not promote good forest management. “Pay-as-cut”, on the other hand, in which a timber owner is only paid for timber that is actually harvested, were associated with “enlightened” resource
management. Consequently, in 1943, Congress, in an effort to provide an incentive for improved forest management, passed legislation that allowed capital gains treatment under Section 631(b) of the IRS Code for pay-as-cut sales, leaving lump-sum sales to pay the much higher capital gains tax. Senator Domenici predicted that President Roosevelt opposed the bill and almost vetoed it.

Today, however, Section 631(b), like so many provisions in the IRS Code, is outdated. Forest management practices are much different from what they were in 1943 and lump-sum sales are no longer associated with poor forest management. And, while there are occasional special situations where other methods may be more appropriate, most timber owners prefer this method over the "pay-as-cut" method. The reasons are simple: title to the timber is transferred upon the closing of the sale and the buyer assumes the risk of any physical loss of timber to fire, storms, etc. Furthermore, the price to be paid for the timber is determined and received at the time of the sale.

Unfortunately, in order for timber owners to qualify for the favorable capital gains treatment, they must market their timber on a "pay-as-cut" basis under Section 631(b) which requires timber owners to sell their timber with a "retained economic interest." This means that the timber owner, not the buyer, must bear the risk of any physical loss during the timber sale contract period and must be paid only for the timber that is actually harvested. As a result, this type of sale can be subject to fraud and abuse by the timber buyer. Since the buyer pays only for the timber that is removed and scaled, there is an incentive to waste poor quality timber by breaking the tree during the logging process, underscaling the timber, or removing the timber without scaling. But because Section 631(b) provides for the favorable tax treatment, many timber owners are forced into exposing themselves to unnecessary risk of loss by having to market their timber in this disadvantageous way instead of the more preferable lump-sum method.

Like many of the provisions in the tax code, Section 631(b) is outdated and prevents good forestry business management. Timber farmers, who have usually spent decades producing their timber, "own" it, should be able to receive equal tax treatment regardless of the method used for marketing their timber.

In the past, the Joint Committee on Taxation has studied this legislation to consider what impact it might have on the Treasury and found that it would have no real cost—only a "negligible change" according to their analysis. The IRS has no business stepping in and dictating the kind of sales contract a landowner must choose. My amendment will provide greater consistency by removing the exclusive "retained economic interest" requirement in the IR section 631(b). Reform of 631(b) is important to our nation's non-industrial, private landowners because it will improve the economic viability of their forestry investments and protect the taxpayer from unnecessary exposure to risk of loss. This in turn will benefit entire forest products industry, the U.S. economy and especially small landowners.

**Submitted Resolutions**

**Senate Concurrent Resolution 26—Authorizing the Rotation of the Capitol to Be Used on July 18, 2001, for a Ceremony to Present Congressional Gold Medals to the Original 29 Navajo Code Talkers**

Mr. BINGAMAN submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 26

Resolved by the Senate (the House of Representatives concurring), That the Rotunda of the Capitol is authorized to be used on July 18, 2001, for a ceremony to present Congressional Gold Medals to the original 29 Navajo Code Talkers. Physical preparations for the ceremony shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

**Amendments Submitted and Proposed**

**SA 110. Mrs. Hutchison submitted an amendment intended to be proposed by her to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; which was ordered to lie on the table; and as follows:**

On page 37, between lines 14 and 15, insert the following:

SEC. 305. LIMITATION ON REIMBURSEMENT FROM CAMPAIGNS FOR CONTRIBUTIONS BY SENATE CANDIDATES AND IMMEDIATE FAMILIES OF SENATE CANDIDATES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 101, is amended by adding at the end the following:

"SEC. 324. LIMITATION ON REIMBURSEMENT FROM CAMPAIGNS FOR CONTRIBUTIONS BY SENATE CANDIDATES AND IMMEDIATE FAMILIES OF SENATE CANDIDATES.

(a) In General.—The aggregate amount of contributions made during an election cycle to a candidate for the office of Senator or the candidate’s authorized committees from the sources described in subsection (b) that may be reimbursed to those sources shall not exceed $250,000.

(b) Sources.—A source is described in this subsection if the source is—

(1) personal funds of the candidate and members of the candidate’s immediate family;

(2) personal loans incurred by the candidate and members of the candidate’s immediate family.

(c) Indexing.—The $250,000 amount under subsection (a) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 318(c), except that the base period shall be calendar year 2000.".

**SA 111. Mrs. Hutchison submitted an amendment intended to be proposed by her to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; which was ordered to lie on the table; and as follows:**

On page 37, between lines 14 and 15, insert the following:

SEC. 305. EXEMPTION FOR STATE AND LOCAL POLITICAL COMMITTEES FROM NOTIFICATION AND REPORTING REQUIREMENTS IMPOSED BY PUBLIC LAW 106–230.

(a) Exemption from Notification Requirements.—Paragraph (5) of section 527(i) of the Internal Revenue Code of 1986 (relating to organizations that may be reimbursed to those sources described in subsection (b) that may be reimbursed to those sources shall not exceed $250,000.

(b) Exemption from Reporting Requirements.—Paragraph (5) of section 527(j) of such Code (relating to required disclosures of expenditures and contributions) is amended by adding by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by adding at the end the following new subparagraph:

"(f) any organization which—

(1) engages in exempt function activity solely in the attempt to influence the selections, nominations, elections, and appointments to such office, and reports under such requirements are publicly available.

(b) Exemption from Reporting Requirements.—Paragraph (5) of section 527(j) of such Code (relating to required disclosures of expenditures and contributions) is amended by adding by striking "or" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting ", or", and by adding at the end the following new subparagraph:

"(f) any organization which—

(1) engages in exempt function activity solely in the attempt to influence the selection, nomination, election, or appointment of any individual to any State or local public office in a State or local political organization, and

(2) is subject to State or local contribution and expenditure reporting requirements relating to selections, nominations, elections, and appointments to such offices, and reports under such requirements are publicly available.".

**Text of Amendments**

**SA 110. Mrs. Hutchison submitted an amendment intended to be proposed by her to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; which was ordered to lie on the table; and as follows:**

On page 37, between lines 14 and 15, insert the following:

SEC. 305. LIMITATION ON REIMBURSEMENT FROM CAMPAIGNS FOR CONTRIBUTIONS BY SENATE CANDIDATES AND IMMEDIATE FAMILIES OF SENATE CANDIDATES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 101, is amended by adding at the end the following:

"SEC. 324. LIMITATION ON REIMBURSEMENT FROM CAMPAIGNS FOR CONTRIBUTIONS BY SENATE CANDIDATES AND IMMEDIATE FAMILIES OF SENATE CANDIDATES.

(a) In General.—The aggregate amount of contributions made during an election cycle to a candidate for the office of Senator or the candidate’s authorized committees from the sources described in subsection (b) that may be reimbursed to those sources shall not exceed $250,000.

(b) Sources.—A source is described in this subsection if the source is—

(1) personal funds of the candidate and members of the candidate’s immediate family;

(2) personal loans incurred by the candidate and members of the candidate’s immediate family.

(c) Indexing.—The $250,000 amount under subsection (a) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 318(c), except that the base period shall be calendar year 2000.".
(c) **EXEMPTION FROM REQUIREMENTS FOR ANNUAL RETURN BASED ON GROSS RECEIPTS.**—Paragraph (6) of section 6012(a) of such Code is amended by striking "section" and inserting "an organization described in section 527(c)(5)(C)".

(d) **EFFECTIVE DATE.**—Notwithstanding section 101(d) of the Act, any amendments made by this section shall take effect as if included in the amendments made by Public Law 106–230.

**SA 112. Mr. DOMENICI (for himself, Mr. ENSEN, and Mr. SESSIONS) proposed an amendment to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign finance reform; as follows:**

On page 37, between lines 14 and 15, insert the following:

**SEC. 305. USE OF PERSONAL WEALTH FOR CAMPAIGN PURPOSES.**

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following:

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(1) USE OF PERSONAL WEALTH.—
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(p) PERSONAL FUNDS.—In this subsection, the term 'personal funds' means:
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(i) funds of the candidate (including funds derived from the asset of the candidate or funds from obligations incurred by the candidate in connection with the candidate's campaign); and
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(ii) funds of the candidate's spouse, a child, stepchild, parent, grandparent, brother, sister, half-brother, or half-sister of the candidate and the spouse of any such person, and a child, stepchild, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate's spouse and the spouse of such person.
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(q) FORM OF STATEMENT.—The statement required by this subsection shall be in such form, and shall contain such information, as the Commission may require.
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(2) INCREASE IN LIMITS.—
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(A) IN GENERAL.—Notwithstanding any provision of law, in any election in which a candidate (other than a candidate for a nonpartisan election) expends personal funds in excess of such limit prescribed under paragraph (1)(A), or an amended declaration under paragraph (1)(A), the candidate shall file an amended declaration with the Commission and shall notify all other candidates for such office within 24 hours after changing such declaration or exceeding such limits, whichever first occurs, by sending such notice by certified mail, return receipt requested.
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(B) ADDITIONAL NOTIFICATION.—After the candidate subsequently does expend personal funds in excess of such limit or intends to expend personal funds in excess of such limits, such candidate shall file an amended declaration with the Commission and shall notify all other candidates for such office within 24 hours after changing such declaration or exceeding such limits, whichever first occurs, by sending such notice by certified mail, return receipt requested.
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(3) INCREASED LIMITS FOR CONVENTION CAMPAIGNS.—If the increased limitations under paragraph (2) are in effect for a convention or a primary sponsored by an individual candidate, and such individual candidate is not a candidate in any subsequent election in such campaign, including the general election, the provisions of paragraph (2) shall no longer apply to eligible candidates in such subsequent elections.
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(4) AMENDED DECLARATION.—
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SA 114. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; which was ordered to lie on the table; as follows:

On page 7, line 24, before ";", and", insert the following: "so that a reasonable person would not disagree that the meaning of the communication, taken as a whole, was to urge the election or defeat of a clearly identified candidate."

On page 15, line 20, insert the following:

"(iv) promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate) so that a reasonable person would not disagree that the meaning of the communication, taken as a whole, was to urge the election or defeat of a clearly identified candidate."

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AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON HOUSING AND TRANSPORTATION

Mr. McCONNELL. Mr. President, I ask unanimous consent that the subcommittee on Housing and Transportation of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Monday, March 19, 2001, to conduct a hearing on "The Health of H.U.D.'s Federal Housing Administration Insurance Fund.

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

SUBCOMMITTEE ON STRATEGIC

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Subcommittee on Strategic of the Committee on Armed Services be authorized Ann H. Birninger, the Session of the Senate on Monday, March 19, 2001 at 2:30 p.m., in open session to receive testimony on the fiscal year 2000 report to Congress of the panel to assess the reliability, safety, and security of the United States nuclear arsenal.

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

PRIVILEGES OF THE FLOOR

Mr. FEINGOLD. Mr. President, I ask unanimous consent that Jeff Lehman, an intern in my office, be granted privileges of the floor during the debate on S. 27, and that privileges of the floor be granted for the duration of the debate on S. 27 to the members of my staff whose names appear below:

Bill Dauster, Ari Geller, Farhana Khera, Trevor Miller, Mary Murphy, Brian O'Leary, Mary Frances Repko, Thomas Reynolds, Ann Richmond, Bob Schiff, Sumner Slichter, Kitty Thomas, Tom Walls, Adam Waskowski, Hilary Wenzler.

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

Mr. REID. Mr. President, I ask unanimous consent that Martin Siegel, a staff member of the Senate Judiciary Committee working with Senator SCHUMER, be granted the privilege of the floor during the pendency of this legislation.

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

BANKRUPTCY REFORM ACT OF 2001

On March 15, 2001, the Senate amended and passed S. 220, as follows; S. 220

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Bankruptcy Reform Act of 2001".

(b) Table of Contents.—The table of contents for this Act is as follows:

TITLFE I.—NEEDS-BASED BANKRUPTCY

Sec. 101. Conversion.
Sec. 102. Dismissal or conversion.
Sec. 103. Sense of Congress and study.
Sec. 104. Nondischargeability of certain debts for alimony, maintenance, and support.
Sec. 105. Debtor financial management training test program.

Sec. 106. Credit counseling.
Sec. 107. Schedules of reasonable and necessary expenses.

TITLFE II.—ENHANCED CONSUMER PROTECTION

Subtitle A.—Penalties for Abusive Creditor Practices

Sec. 201. Promotion of alternative dispute resolution.
Sec. 203. Discouraging abuse of reaffirmation practices.
Sec. 204. Preservation of claims and defenses upon sale of predatory loans.
Sec. 205. GAO study on reaffirmation process.

Subtitle B.—Priority Child Support

Sec. 211. Definition of domestic support obligation.
Sec. 212. Priorities for claims for domestic support obligations.
Sec. 213. Requirements to obtain confirmation and discharge in cases involving domestic support obligations.
Sec. 214. Exceptions to automatic stay in domestic support obligation proceedings.
Sec. 215. Nondischargeability of certain debts for alimony, maintenance, and support.
Sec. 216. Continued liability of property.
Sec. 217. Protection of domestic support claims against preferential transfer in bankruptcy.
Sec. 218. Disposable income defined.
Sec. 219. Collection of child support.
Sec. 220. Nondischargeability of certain educational benefits and loans.

Subtitle C.—Other Consumer Protections

Sec. 221. Amendments to discourage abusive bankruptcy filings.
Sec. 222. Sense of Congress.
Sec. 223. Additional amendments to title 11, United States Code.
Sec. 224. Protection of retirement savings in bankruptcy.
Sec. 225. Protection of education savings in bankruptcy.
Sec. 226. Definitions.
Sec. 227. Restrictions on debt relief agencies.
Sec. 228. Disclosures.
Sec. 229. Requirements for debt relief agencies.

Sec. 230. GAO study.
Sec. 231. Protection of nonpublic personal information.
Sec. 232. Consumer privacy ombudsman.
Sec. 233. Prohibition on disclosure of identity of minor children.

TITLFE III.—DISCOURAGING BANKRUPTCY ABUSE

Sec. 301. Reinforcement of the fresh start.
Sec. 302. Discouraging bad faith repeat filings.
Sec. 303. Curbing abusive filings.
Sec. 304. Debtor retention of personal property security.
Sec. 305. Relief from the automatic stay when the debtor does not complete intended surrender of consumer debt collateral.
Sec. 306. Giving secured creditors fair treatment in chapter 13.
Sec. 307. Domiciliary requirements for children.

Sec. 308. Limitation.
Sec. 309. Protecting secured creditors in chapter 13.
Sec. 310. Limitation on luxury goods.
Sec. 311. Automatic stay.
Sec. 312. Extension of period between bankruptcy filings.
Sec. 313. Definition of household goods and antiques.
Sec. 314. Debt incurred to pay nondischargeable debts.
Sec. 315. Giving creditors fair notice in chapters 7 and 13 cases.
Sec. 316. Dismissal for failure to timely file schedules or provide required information.
Sec. 317. Adequate time to prepare for hearing on confirmation of the plan.
Sec. 318. Chapter 13 plans to have a 5-year duration in certain cases.
Sec. 320. Prompt relief from stay in individual cases.
Sec. 321. Chapter 11 cases filed by individuals.
Sec. 322. Excluding employee benefit plan participant contributions and other property from the estate.
Sec. 323. Exclusive jurisdiction in matters involving bankruptcy professionals.
Sec. 324. United States trustee program filing fee increase.
Sec. 325. Sharing of compensation.
Sec. 326. Fair valuation of collateral.
Sec. 327. Defaulted basis on nonmonetary obligations.
Sec. 328. Nondischargeability of debts incurred through violations of laws relating to the provision of lawful goods and services.
Sec. 329. Clarification of postpetition wages and benefits.

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS
Sec. 401. Adequate protection for investors.
Sec. 402. Meetings of creditors and equity security holders.
Sec. 403. Protection of refinance of security interest.
Sec. 404. Executory contracts and unexpired leases.
Sec. 405. Creditors and equity security holders committees.
Sec. 406. Amendment to section 546 of title 11, United States Code.
Sec. 407. Amendments to section 330(a) of title 11, United States Code.
Sec. 408. Postpetition disclosure and solicitation.
Sec. 409. Preferences.
Sec. 410. Venue of certain proceedings.
Sec. 411. Period for filing plan under chapter 11.
Sec. 412. Fees arising from certain ownership interests.
Sec. 413. Creditors representation at first meeting of creditors.
Sec. 414. Definition of disinterested person.
Sec. 415. Factors for compensation of professionals.
Sec. 416. Appointment of elected trustee.
Sec. 417. Utility service.
Sec. 418. Bankruptcy fees.
Sec. 419. More complete information regarding assets of the estate.
Sec. 420. Duties with respect to a debtor who is a plan administrator of an employee benefit plan.
Sec. 431. Flexible rules for disclosure statement and plan.
Sec. 432. Definitions.
Sec. 433. Standard form disclosure statement and plan.
Sec. 434. Uniform national reporting requirements.
Sec. 435. Uniform reporting rules and forms for small business cases.
Sec. 436. Duties in small business cases.
Sec. 437. Plan filing and confirmation deadlines.
Sec. 438. Plan confirmation deadline.
Sec. 439. Duties of the United States trustee.
Sec. 440. Provisions on payment.
Sec. 441. Serial file provisions.
Sec. 442. Expanded grounds for dismissal or conversion and appointment of trustee to small businesses.
Sec. 443. Study of operation of title 11, United States Code, with respect to small businesses.
Sec. 444. Payment of interest.
Sec. 445. Priority for administrative expenses.

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS
Sec. 501. Petition and proceedings related to plan.
Sec. 502. Applicability of other sections to chapter 9.
Sec. 503. Determination of disposable income.
Sec. 504. Decision on confirmation of plan.
Sec. 505. Trustee in possession.
Sec. 506. Liquidation of municipal assets.
Sec. 507. Trustee in possession.
Sec. 508. Confirmation of plan.
Sec. 509. Proofs of claim.
Sec. 510. Procedure with respect to claims.
Sec. 511. Filing of proofs of claim.
Sec. 512. Confirmation or rejection.
Sec. 513. Effective date; application of amendments.

TITLE VI—BANKRUPTCY TAX PROVISIONS
Sec. 601. Improved bankruptcy statistics.
Sec. 602. Uniform rules for the collection of bankruptcy data.
Sec. 603. Audit procedures.
Sec. 604. Sense of Congress regarding availability of bankruptcy data.

TITLE VII—BANKRUPTCY PROVISIONS
Sec. 701. Treatment of certain liens.
Sec. 702. Rights of creditors.
Sec. 703. Notice of request for a determination of taxes.
Sec. 704. Rate of interest on tax claims.
Sec. 705. Priority of tax claims.
Sec. 706. Priority property taxes incurred.
Sec. 707. Discharge of fraudulent taxes in chapter 11.
Sec. 708. Discharge of fraudulent taxes in chapter 11.
Sec. 709. Stay of tax proceedings limited to tax proceedings limited to tax judgment creditors.
Sec. 710. Periodic payment of taxes in chapter 11 cases.
Sec. 711. Avoidance of statutory tax liens.
Sec. 712. Payment of taxes in the conduct of business.
Sec. 713. Tardily filed priority tax claims.
Sec. 714. Involuntary receivership judicial tax authorities.
Sec. 715. Discharge of the estate’s liability for federal and state taxes.
Sec. 716. Requirement to file tax returns to confirm chapter 11 plans.
Sec. 717. Standards for tax disclosure.
Sec. 718. Setoff of tax refunds.
Sec. 719. Special provisions related to the treatment of State and local taxes.
Sec. 720. Dismissal for failure to timely file tax returns.

TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES
Sec. 801. Amendment to add chapter 15 to title 11, United States Code.
Sec. 802. Other amendments to titles 11 and 28, United States Code.

TITLE IX—FINANCIAL CONTRACT PROVISIONS
Sec. 901. Treatment of certain agreements by conservators or receivers of insured depository institutions.
Sec. 902. Authority of the Corporation with respect to failed and failing insured depository institutions.
Sec. 903. Amendments relating to transfers of qualified financial contracts.
Sec. 904. Amendment relating to disaffirmance or repudiation of qualified financial contracts.
Sec. 905. Clarifying amendment relating to exchange of prepetition claims.
Sec. 907. Bankruptcy Code amendments.
Sec. 907A. Securities broker/commodity broker liquidation.
Sec. 908. Recordkeeping requirements.
Sec. 909. Exemptions from contemporaneous execution requirement.
Sec. 910. Damage measure.
Sec. 911. SIPC stay.
Sec. 912. Asset-backed securitizations.
Sec. 913. Effective date; application of amendments.
Sec. 914. Savings clause.

TITLE X—PROTECTION OF FAMILY FARMERS AND FAMILY FISHERMEN
Sec. 1001. Permanent reenactment of chapter 12.
Sec. 1002. Debt limit increase.
Sec. 1003. Certain claims owed to governmental units.
Sec. 1004. Definition of family farmer.
Sec. 1005. Elimination of requirement that family farmer and spouse receive over 50 percent of income from farming operation in year prior to bankruptcy.
Sec. 1006. Prohibition of retroactive assessment of disposable income.
Sec. 1007. Family fishermen.

TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS
Sec. 1101. Definitions.
Sec. 1102. Adjustment of dollar amounts.
Sec. 1103. Extension of time.
Sec. 1104. Technical amendments.
Sec. 1105. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.
Sec. 1106. Limitation on compensation of professional persons.
Sec. 1107. Effect of conversion.
Sec. 1108. Allowance of administrative expenses.
Sec. 1109. Exceptions to discharge.
Sec. 1110. Effect of discharge.
Sec. 1111. Protection against discriminatory treatment.
Sec. 1112. Property of the estate.
Sec. 1113. Preferences.
Sec. 1114. Postpetition transactions.
Sec. 1115. Disposition of property of the estate.
Sec. 1116. General provisions.
Sec. 1117. Abandonment of railroad line.
Sec. 1118. Contents of plan.
Sec. 1119. Bankruptcy cases and proceedings.
Sec. 1120. Knowing disregard of bankruptcy law or rule.
Sec. 1121. Transfers made by nonprofit charitable corporations.
Sec. 1122. Protection of valid purchase money security interests.
Sec. 1123. Bankruptcy judgeships.
Sec. 1124. Compensating trustees.
Sec. 1125. Amendment to section 362 of title 11, United States Code.
Sec. 1126. Judicial education.
Sec. 1127. Reclamation.
Sec. 1128. Providing requested tax documents to the court.
Sec. 1129. Encouraging creditors’ worthiness.
Sec. 1130. Property no longer subject to redemption.
Sec. 1231. Trustees.
Sec. 1232. Bankruptcy forms.
Sec. 1233. Expedited appeals of bankruptcy cases to courts of appeals.
Sec. 1234. Bankruptcy liquidation.
Sec. 1235. Involuntary cases.
Sec. 1236. Federal election law fines and penalties.
Sec. 1237. No bankruptcy for insolvent political committees.

TITIE XIII—CONSUMER CREDIT DISCLOSURE

Sec. 1238. Enhanced disclosures under an open end credit plan.
Sec. 1239. Enhanced disclosure for credit extensions secured by a dwelling.
Sec. 1240. Disclosure related to "introductory rates".
Sec. 1241. Internet-based credit card solicitations.
Sec. 1242. Disclosures related to late payment deadlines and penalties.
Sec. 1243. Prohibition on certain actions for failure to incur finance charges.
Sec. 1244. Dual use debit card.
Sec. 1245. Study of bankruptcy impact of credit extended to dependent spouses.
Sec. 1246. Clarification of clear and conspicuous disclosure.

TITIE XIV—EMERGENCY ENERGY ASSISTANCE AND CONSERVATION MEASURES

Sec. 1247. Short title.
Sec. 1248. Findings and purposes.
Sec. 1249. Increased funding for LIHEAP, weatherization and State energy grants.
Sec. 1250. Federal energy management reviews.
Sec. 1251. Cost savings from replacement facilities.
Sec. 1254. Effective date.

TITIE XV—GENERAL EFFECTIVE DATE: APPLICATION OF AMENDMENTS

Sec. 1255. Revised date; application of amendments.

TITIE XVI—MISCELLANEOUS PROVISIONS

Sec. 1256. Reimbursement of research, development, and maintenance costs.

TITIE I—NEEDS-BASED BANKRUPTCY

SEC. 101. CONVERSION.

Section 706(c) of title 11, United States Code, is amended by inserting "or consents to" after "requests".

SEC. 102. DISMISSAL OR CONVERSION.

(a) In General.—Section 707 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following: "S 707. Dismissal of a case or conversion to a case under chapter 11 or 13."

and

(2) in subsection (b)—

(A) by striking "(1)" after "(b)"

(B) in paragraph (1), as redesignated by subparagraph (A) of this paragraph—

(I) in the first sentence—

(2) by striking "(i)" after "at the request of" and inserting "trustee, bankruptcy administrator, or"

(II) by inserting "and", or, with the debtor's consent, converted to a case under chapter 11 or 13 of this title," after "consumer debts"; and

(III) by striking "a substantial abuse" and inserting "an abuse of the provisions of this chapter, the court shall presume abuse exists if the debtor's current monthly income reduced by the amounts determined under clauses (i), (ii), and (iv), and multiplied by 60 is not less than the lesser of—

(I) 25 percent of the debtor's nonpriority unsecured claims in the case, or $6,000, whichever is greater; or

(II) $10,000.

(ii) The debtor's monthly expenses shall be the debtor's applicable monthly expenses as defined in the National Standards and Local Standards, and the debtor's actual monthly expenses for the categories specified as Other Necessary Expenses issued by the Internal Revenue Service for the area in which the debtor resides, as in effect on the date of the entry of the order for relief, for the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case, if the spouse is not otherwise a dependent. Notwithstanding any other provision of this clause, the monthly expenses of the dependents of the family shall include any payments for debts. In addition, the debtor's monthly expenses shall include the debtor's reasonably necessary expenses incurred to maintain the family and the family of the debtor from family violence as identified under section 309 of the Family Violence Prevention and Services Act (42 U.C.C. 1088) or other applicable Federal law. The expenses included in the debtor's monthly expenses described in the preceding sentence shall be kept confidential by the court. In addition, if it is demonstrated that it is reasonable and necessary, the debtor's monthly expenses may also include an additional allowance for food and clothing of up to 5 percent of the food and clothing categories as specified by the National Standards issued by the Internal Revenue Service.

(II) In addition, the debtor's monthly expenses may include, if applicable, the continuation of actual expenses paid by the debtor that are reasonable and necessary for care and support of an elderly, chronically ill, or disabled household member or member of the debtor's immediate family (including parents, grandparents, siblings, children, and dependents) of the debtor, and the spouse of the debtor in a joint case who is not a dependent and who is unable to pay for such reasonable and necessary expenses.

(III) In addition, for a debtor eligible for chapter 13, the debtor's monthly expenses may include the actual administrative expenses of administering a chapter 13 plan for the district in which the debtor resides, up to an amount of 10 percent of the projected plan payments, as determined under Schedule I(A)(1) of the heroic Executive Office for United States Trustees.

(IV) In addition, the debtor's monthly expenses may include the reasonable and necessary expenses for each dependent child under the age of 18 years up to $1,500 per year per child to attend a private or public elementary or secondary school, if the debtor provides documentation of such expenses and a detailed explanation of why such expenses are reasonable and necessary, and that such expenses are not already accounted for in the Internal Revenue Service standards referred to in section 707(b)(2) of this title.

(V) In addition, if it is demonstrated that it is reasonable and necessary, the debtor's monthly expenses may also include an additional allowance for housing and utilities, in excess of the allowance specified by the National Standards and Local Standards issued by the Internal Revenue Service, based on the actual expenses for home energy costs, if the debtor provides documentation of such expenses.

(VI) The debtor's average monthly payments on account of secured debts shall be calculated as—

(1) the sum of—

(aa) the total of all amounts scheduled as contractually due to secured creditors in the 6 months following the date of the petition; and

(bb) any additional payments to secured creditors necessary for the debtor, in filing a plan under chapter 13 of this title, to maintain possession of the debtor's primary residence, motor vehicle, or other property necessary for the support of the debtor and the dependents of the family, that serves as collateral for secured debts; divided by

(2) the debtor's expenses for payment of all priority claims (including priority child support and alimony claims) shall be calculated as—

(i) the total amount of debts entitled to priority; divided by

(II) 60.

(bb) In any proceeding brought under this subsection, the presumption of abuse may only be rebutted by demonstrating special circumstances that justify additional expenses or adjustments of current monthly income in a case where there is no reasonable alternative.

(ii) In order to establish special circumstances, the debtor shall be required to—

(1) itemize each additional expense or adjustment of income; and

(II) provide—

(aa) documentation for such expense or adjustment to income; and

(bb) a detailed explanation of the special circumstances that make such expenses or adjustment to income necessary and reasonable.

(iii) The debtor shall attest under oath to the accuracy of any information provided to demonstrate that additional expenses or adjustments to income are required.

(iv) The presumption of abuse may only be rebutted if the additional expenses or adjustments to income referred to in clause (i) cause the product of the debtor's current monthly income reduced by the amounts determined under clauses (i), (ii), and (iv) of subparagraph (A) when multiplied by 60 to be less than the lesser of—

(1) 25 percent of the debtor's nonpriority unsecured claims, or $6,000, whichever is greater; or

(II) $10,000.

(2) The debtor may either demonstrate that the additional expenses or adjustments to income were incurred due to factors other than factors relating to the natural course of events or to the ordinary course of business or to factors that were not reasonably unforeseeable or unavoidable.

(C) As part of the schedule of current income and expenditures required under section 521, the debtor shall include a statement of the debtor's current monthly income, and the calculations that determine whether a presumption arises under subparagraph (A)(I), that shows how each such amount is calculated.

(3) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter in a case in which the presumption in subparagraph (A)(I) of such paragraph does not apply or has been rebutted, the court shall consider—

(A) whether the debtor filed the petition in bad faith; or

(B) the totality of the circumstances (including whether the debtor seeks to reject a personal services contract and the financial need for such rejection as sought by the debtor) of the debtor's financial situation demonstrates abuse.

(4)(A) The court shall order the counsel for the debtor to reimburse the trustee for all reasonable costs incurred in preparing a motion brought under section 707(b), including reasonable attorneys' fees, if—
“(i) a trustee appointed under section 586(a)(1) of title 28 or from a panel of private trustees maintained by the bankruptcy administrator brings a motion for dismissal or conversion in this subsection; and

(ii) the court—

(I) grants that motion; and

(II) finds that the action of the counsel for the debtor violates this chapter or the Federal Rules of Bankruptcy Procedure.

“(B) The court shall—

(i) follow the appropriate civil penalty against the counsel for the debtor; and

(ii) the payment of the civil penalty to the trustee, the United States trustee, or the bankruptcy administrator.

“(C) In the case of a pleading, or written motion, the signature of an attorney shall constitute a certification that the attorney—

(I) performed a reasonable investigation into the motion or pleadings that gave rise to the petition, pleading, or written motion; and

(II) determined that the pleading, or written motion—

(A) has no well grounded fact or law; and

(B) is not warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and does not constitute a harassment of a judge or a court officer or other party in interest.

“(D) The signature of an attorney on the pleading or written motion shall constitute a certification that the attorney has—

(i) performed a reasonable investigation into the information on the schedules filed with such petition is incorrect.

(ii) A motion as provided in subparagraph (B) and under paragraph (1), the court may award a debtor all reasonable costs (including reasonable attorneys' fees) in contesting, by a party in interest (other than a trustee, United States trustee, or bankruptcy administrator) under this subsection if

(i) the court does not grant the motion; and

(ii) the court finds that—

(I) the position of the party that brought the motion violated rule 901 or 902 of the Federal Rules of Bankruptcy Procedure; or

(II) the party brought the motion solely for the purpose of coercing a debtor into waiving an involuntary case or in an effort to guarantee the defendant to the defendant under this title.

“(B) A small business that has a claim of an aggregate amount of less than $1,000 shall not be subject to subparagraph (A)(ii).

“(C) For purposes of this paragraph—

(i) the term 'small business' means an unincorporated business, partnership, corporation, association, or organization that—

(A) has less than 25 full-time employees as determined on the date the motion is filed; and

(B) is engaged in commercial or business activity; and

(ii) the number of employees of a wholly owned affiliate of a corporation includes the employees of—

(A) a parent corporation; and

(B) any other subsidiary corporation of the parent corporation.

“(D) Only the judge, United States trustee, or bankruptcy administrator may bring a motion under paragraph (2), if the current monthly income of the debtor, or in a joint case, the debtor and the debtor's spouse, as of the date of the order for relief when multiplied by 12, is less than $25 per month for each individual in excess of 4.

“(E) No judge, United States trustee, panel trustee, bankruptcy administrator or other party in interest may bring a motion under subparagraph (A)(ii)(I).

“(F) If the court finds that—

(i) the court does not grant the motion; or

(ii) the court determines that the debtor's case should be precluded from being an abuse under section 707(b)

the Internal Revenue Service) and clauses (iii) and (iv) of section 707(b)(2)(A), multiplied by 60 is less than the lesser of—

(I) 25 percent of the debtor's nonpriority unsecured claims in the case or $6,000, whichever is greater; or

(II) $10,000.

“(G) The product of the debtor's current monthly income, reduced by the amounts determined under section 707(b)(2)(A)(ii) (except for information communicated ex parte, unless otherwise permitted by applicable law), United States trustee, bankruptcy administrator or trustee.

“(H) Notice.—Section 342 of title 11, United States Code, is amended by adding at the end the following:

“(A) In an individual case under chapter 7 in which the presumption of abuse is triggered under section 707(b), the clerk shall—

(i) notify the debtor at least 30 days prior to the date of the meeting of creditors; and

(ii) when notice is given by mail, provide the notice to the debtor at least 10 days after the date of the filing of the petition that the presumption of abuse has been triggered.

“(I) NONLIMITATION OF INFORMATION.—Nothing in this title shall limit the ability of a creditor to provide information to a judge (except for information communicated ex parte, unless otherwise permitted by applicable law), United States trustee, bankruptcy administrator or trustee.

“(J) DISMISSAL FOR CERTAIN CRIMES.—Section 707 of title 11, United States Code, as amended by this section, is amended by adding at the end the following:

“(A) The term 'crime of violence' has the meaning given that term in section 16 of title 18.

“(B) The term 'drug trafficking crime' has the meaning given that term in section 924(c)(2) of title 18.

“(C) Except as provided in paragraph (3), an individual who has been convicted of a crime of violence or a drug trafficking crime, when it is in the best interest of the victims, may dismiss a case filed by the debtor under this chapter if that individual was convicted of that crime.
“(3) The court may not dismiss a case under paragraph (2) if the debtor establishes by a preponderance of the evidence that the filing of a case under this chapter is necessary to maintain a claim for a domestic support obligation.”.

(g) CONFIRMATION OF PLAN.—Section 1325(a) of title 11, United States Code, is amended—

(1) in paragraph (5), by striking “and” at the end;

(2) in paragraph (6), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:—

“(7) the action of the debtor in filing the petition was in good faith;”.

and inserting a semicolon; and

the end;

ANCE.—Section 1329(a) of title 11, United States Code, is amended—

(1) in paragraph (1)(B), by inserting “to unsecured creditors” after “to make payments”; and

(2) by striking paragraph (2) and inserting the following:—

“(2) For purposes of this subsection, the term ‘disposable income’ means current monthly income received by the debtor (other than child support payments, foster care payments, or disability payments for a dependent child made in accordance with applicable nonbankruptcy law to the extent reasonably necessary for the support of such child) less amounts reasonably necessary to be expended—

(A) for the maintenance or support of the debtor or a dependent of the debtor or for a domestic support obligation that first becomes payable after the date the petition is filed and for charitable contributions (that meet the definition of ‘charitable contribution’ under section 54(d)(3) to a qualified religious or charitable entity or organization (as that term is defined in section 54(d)(4)) in an amount not to exceed 15 percent of gross income of the debtor for the year in which the contributions are made; and

(B) if the debtor is engaged in business, for the payment of expenditures necessary for the continuation, preservation, and operation of such business.

(3) Amounts reasonably necessary to be expended under paragraph (2) shall be determined in accordance with subparagraphs (A) and (B) of section 707(b)(2), if the debtor has current monthly income, when multiplied by 12, greater than—

(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census; or

(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census; or

(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals last reported by the Bureau of the Census, plus $25 per month per additional individual in excess of 4.

(1) SPECIAL ALLOWANCE FOR HEALTH INSURANCE.—Section 1325(a)(1) of title 11, United States Code, as amended by inserting the following new paragraph—

“(4) reduce amounts to be paid under the plan by the actual amount expended by the debtor for health insurance coverage for the debtor and any dependent of the debtor (if those dependents do not otherwise have health insurance coverage) if the debtor documents the payment of such insurance and demonstrates that—

(A) such expenses are reasonable and necessary;

(B) if the debtor previously paid for health insurance, the amount is not materially larger than the cost the debtor previously paid or the cost necessary to maintain the lapsed policy, or;

(ii) if the debtor did not have health insurance, the amount is not materially larger than the cost the debtor would have been required to incur by a debtor who purchases health insurance and who has similar income, expenses, age, health status, and lives in the same geographic area as the debtor and with the same number of dependents that do not otherwise have health insurance coverage; and

(C) the amount is not otherwise allowed for purposes of disposable income under section 1325(b) of this title.

Upon request of any party in interest the debtor shall file proof that a health insurance policy was in effect and that the amounts were paid in accordance with paragraph (4).

(2) in paragraph (6), by striking the period and inserting a semicolon; and

the end;

ANCE.—Section 1329(a) of title 11, United States Code, is amended—

(1) in paragraph (1)(B), by inserting “to unsecured creditors” after “to make payments”; and

(2) by striking paragraph (2) and inserting the following:—

“(2) For purposes of this subsection, the term ‘disposable income’ means current monthly income received by the debtor (other than child support payments, foster care payments, or disability payments for a dependent child made in accordance with applicable nonbankruptcy law to the extent reasonably necessary for the support of such child) less amounts reasonably necessary to be expended—

(A) for the maintenance or support of the debtor or a dependent of the debtor or for a domestic support obligation that first becomes payable after the date the petition is filed and for charitable contributions (that meet the definition of ‘charitable contribution’ under section 54(d)(3) to a qualified religious or charitable entity or organization (as that term is defined in section 54(d)(4)) in an amount not to exceed 15 percent of gross income of the debtor for the year in which the contributions are made; and

(B) if the debtor is engaged in business, for the payment of expenditures necessary for the continuation, preservation, and operation of such business.

(3) Amounts reasonably necessary to be expended under paragraph (2) shall be determined in accordance with subparagraphs (A) and (B) of section 707(b)(2), if the debtor has current monthly income, when multiplied by 12, greater than—

(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census; or

(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census; or

(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals last reported by the Bureau of the Census; or

(D) the types of expenses allowed under subparagraph (C) that are consistent with—

(A) a person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury in connection with a bankruptcy case is subject to fine, imprisonment, or both; and

(B) all information supplied by a debtor under section 707(b) of title 11, United States Code; and

(B) the impact that the application of such guidelines has had on debtors and on the bankruptcy courts.

(2) RECOMMENDATION.—The report under paragraph (1) may include recommendations for amendments to section 707(b) of title 11, United States Code, that are consistent with the findings of the Director under paragraph (1).

SEC. 104. NOTICE OF ALTERNATIVES.

Section 342(b) of title 11, United States Code, is amended by—

(1) in paragraph (3), by striking the period and inserting a semicolon; and

the end;

ANCE.—Section 111(a) of title 11, United States Code, is amended by—

(1) in paragraph (1), by striking the period and inserting a semicolon; and

the end;

ANCE.—Section 1329(a) of title 11, United States Code, is amended by—

(1) in paragraph (1)(A), by striking the period and inserting a semicolon; and

the end;
United States trustee or bankruptcy administrator at any time.

‘‘(3)(A) Subject to subparagraph (B), the requirements of paragraph (1) shall not apply with respect to a debtor who submits to the court a certification—

‘‘(i) describes exigent circumstances that merit a waiver of the requirements of paragraph (1); and

‘‘(ii) states that the debtor requested credit counseling services from an approved nonprofit budget and credit counseling agency, but was unable to complete the services referred to in paragraph (1) during the 5-day period beginning on the date on which the debtor made that request; and

‘‘(B) With respect to a debtor, an exemption under subparagraph (A) shall cease to apply to that debtor on the date on which the debtor meets the requirements of paragraph (1), but in no case may the exemption apply to that debtor after the date that is 30 days after the debtor files a petition, except that the court, for cause, may order an additional 15 days.’’.

(b) CHAPTER 7 DISCHARGE.—Section 727(a) of title 11, United States Code, is amended—

(1) in paragraph (9), by striking “or” at the end;

(2) in paragraph (10), by striking the period at the end; and

(3) by adding at the end the following:

‘‘(11) after the filing of the petition, the debtor failed to complete an instructional course concerning personal financial management described in section 111.

‘‘(12)(A) Paragraph (11) shall not apply with respect to a debtor who resides in a district in which the bankruptcy administrator of that district determines that the approved instructional courses are not adequate to service the additional individuals who will be required to complete such instructional courses under this section.

‘‘(B) Each United States trustee or bankruptcy administrator that makes a determination described in subparagraph (A) shall review that determination not later than 1 year after the date of that determination, and not less frequently than every year thereafter.’’.

(c) CHAPTER 13 DISCHARGE.—Section 1328 of title 11, United States Code, is amended by adding at the end the following:

‘‘(g) The court shall not grant a discharge under this section to a debtor, unless after filing a petition the debtor has completed an instructional course concerning personal financial management described in section 111.

‘‘(h) Subsection (g) shall not apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of the bankruptcy court of that district determines that the approved instructional courses are not adequate to service the additional individuals who would be required to complete the instructional course by reason of the requirements of this section.

‘‘(1) Each United States trustee or bankruptcy administrator that makes a determination under subsection (b) shall review that determination not later than 1 year after the date of that determination, and not less frequently than every year thereafter

‘‘(d) DEBTOR’S DUTIES.—Section 521 of title 11, United States Code, is amended—

(1) by inserting ‘‘(a)’’ before ‘‘The debtor shall—’’ after subsection (a); and

(2) by adding at the end the following:

‘‘(a) a certificate from the approved nonprofit budget and credit counseling agency that provided the debtor services under section 109(h) describing the services provided to the debtor; and

‘‘(b) a copy of the debt repayment plan, if any, the nonprofit budget and credit counseling agency referred to in paragraph (1).’’.

(e) GENERAL PROVISIONS.—

(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

‘‘8111. Credit counseling services; financial management instructional courses

‘‘(a) The clerk of each district shall maintain in a publicly available list of—

‘‘(i) each United States trustee, bankruptcy administrator, or credit counseling agency that demonstrates to the court—

‘‘(i) states that the debtor requested credit counseling services from an approved non-profit budget and credit counseling agency, but was unable to complete the services referred to in paragraph (1),

‘‘(ii) after the filing of the petition, the debtor failed to complete an instructional course concerning personal financial management described in section 111.

‘‘(2) By a credit counseling agency that provides an instructional course concerning personal financial management as follows:

‘‘(A) The United States trustee or bankruptcy administrator shall only approve an instructional course concerning personal financial management currently approved by the United States trustee or the bankruptcy administrator for the district, as applicable.

‘‘(B) The United States trustee or bankruptcy administrator may approve a credit counseling agency or instructional course concerning personal financial management as follows:

‘‘(1) The United States trustee or bankruptcy administrator shall only approve a credit counseling agency or instructional course concerning personal financial management currently approved by the United States trustee or the bankruptcy administrator for the district, as applicable.

‘‘(2) The United States trustee or bankruptcy administrator shall only approve an instructional course concerning personal financial management currently approved by the United States trustee or the bankruptcy administrator for the district, as applicable.

‘‘(3) When an agency or course of instruction is initially approved, such approval shall be for a probationary period not to exceed 6 months. An agency or course of instruction is not approved if it did not appear on the approved list for the district under subsection (a) immediately prior to approval.

‘‘(4) At the conclusion of the probationary period under paragraph (3), the United States trustee or bankruptcy administrator may only approve for an additional 1-year period, and for subsequent periods of 2-year periods thereafter, an interested person may seek judicial review of such decision in the appropriate United States District Court.

‘‘(5) The United States trustee or bankruptcy administrator shall only approve a credit counseling agency that demonstrates that it will provide qualified counselors, maintain accurate records of account information and payment of client funds, provide adequate counseling with respect to client credit problems, and deal responsibly and effectively with creditors, in a manner that is fair, reasonable, and necessary in order to provide quality, effectiveness, and financial security of such programs.

‘‘(2) To be approved by the United States trustee or bankruptcy administrator, a credit counseling agency shall, at a minimum—

‘‘(A) be a nonprofit budget and credit counseling agency, the majority of the board of directors of which—

‘‘(i) are not appointed by the agency; and

‘‘(ii) will not directly or indirectly benefit financially from the outcome of a credit counseling session;

‘‘(B) if a fee is charged for counseling services, charge a reasonable fee, and provide such services without regard to ability to pay the fee;

‘‘(C) provide for safekeeping and payment of client funds, including an annual audit of client accounts and appropriate employee bonding;

‘‘(D) provide full disclosures to clients, including funding sources, counselor qualifications, possible impact on credit reports, and any costs of such program that will be paid by the debtor and how such costs will be paid;

‘‘(E) provide adequate counseling with respect to client credit problems that includes an analysis of their current situation, what brought them to that financial status, and how they can develop a plan to resolve the problem without incurring negative amortization of their debts;

‘‘(F) provide trained counselors who receive no commissions or bonuses based on the counseling session outcome, and who have adequate experience, and have been adequately trained to provide counseling services to individuals in financial difficulty, including the matters described in subparagraph (E);

‘‘(G) demonstrate adequate experience and background in providing credit counseling and

‘‘(H) have adequate financial resources to provide continuing support services for budgeting plans over the life of any repayment plan;

‘‘(I) The United States trustee or bankruptcy administrator shall only approve an instructional course concerning personal financial management—

‘‘(i) for an initial probationary period under subsection (b)(3) if the course will provide

‘‘(ii) for an instructional course of instruction and that are consistent with stated objectives directly related to the goals of such course of instruction;

‘‘(C) adequate facilities situated in reasonably convenient locations at which such course of instruction is offered, except that such facilities may include the provision of such course of instruction or program by telephone or through the Internet, if the course of instruction or program is effective; and

‘‘(D) The preparation and retention of reasonable records (which shall include the debtor’s bankruptcy case number) to permit evaluation of the effectiveness of such course of instruction or program, including any evaluation of satisfaction of course of instruction or program requirements for each debtor attending such course of instruction or program, which shall be available for inspection and evaluation by the Executive Office for United States Trustees. The United States trustee, bankruptcy administrator, or chief bankruptcy judge for the district in which such course of instruction or program is held shall assess

‘‘(2) for any 1-year period if the provider thereof has demonstrated that the course
meets the standards of paragraph (1) and, in addition—

"(A) has been effective in assisting a substantial number of debtors to understand personal financial management; and

"(B) is otherwise likely to increase substantially debtor understanding of personal financial management.

(e) The District Court may, at any time, investigate the qualifications of a credit counseling agency referred to in subsection (a), and request production of documents to ensure the integrity and effectiveness of such credit counseling agencies. The District Court may, at any time, remove from the approved list subsection (a) a credit counseling agency upon finding such agency does not meet the qualifications of subsection (b).

(f) The United States trustee or bankruptcy administrator shall notify the clerk that a credit counseling agency or an instructional course is no longer approved, in which case the clerk shall remove it from the list maintained under subsection (a).

"(g)(1) No credit counseling service may provide to a credit reporting agency information concerning whether an individual debtor has received or sought instruction concerning personal financial management from the credit counseling service.

"(2) A credit counseling service that willfully or negligently fails to comply with any requirement under this title with respect to a debtor shall be liable for damages in an amount equal to the sum of—

"(A) any actual damages sustained by the debtor as a result of the violation; and

"(B) any court costs or reasonable attorneys' fees (as determined by the court) incurred in an action to recover those damages.

(2) CHERICAL AMENDMENT.—The table of sections for chapter 1 of title 11, United States Code, is amended by adding at the end the following:

"111. Credit counseling services; financial management instructional courses.

(f) LIMITATION.—Section 362 of title 11, United States Code, is amended by adding at the end the following:

"(i) was made at least 60 days before the filing of the petition; and

"(ii) provided for payment of at least 60 percent of the amount of the debt over a period not to exceed the repayment period of the loan, or a reasonable extension thereof; and

"(C) no part of the debt under the alternative repayment schedule is nondischargeable.

(2) The debtor shall have the burden of proving, by clear and convincing evidence, that—

"(A) the creditor unreasonably refused to consider the debtor's proposal; and

"(B) the proposed alternative repayment schedule was made prior to expiration of the 60-day period specified in paragraph (1)(i).

(b) LIMITATION ON AVOIDABILITY.—Section 549 of title 11, United States Code, is amended by adding at the end the following:

"(h) The trustee may not avoid a transfer if such transfer was made as a part of an alternative repayment plan between the debtor and any creditor of the debtor created by an approved credit counseling agency.

SEC. 202. EFFECT OF DISCHARGE.

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

"(i) The willful failure of a creditor to credit payments received under a plan confirmed under this title (including a plan of reorganization confirmed under chapter 11 of this title), unless the plan is dismissed, in default, or the creditor has not received payments required to be made under the plan (including crediting the amounts required under the plan), shall constitute a violation of an injunction under subsection (a)(2) if the act of the creditor occurs in the period of time specified in paragraph (1) of subsection (b) of section 362 of title 11.

"(j) Subsection (a)(2) does not operate as an injunction against the creditor, if—

"(I) the annual percentage rate under section 1801 of title 15, United States Code, is amended by adding at the end the following:

"(k)(1) The disclosures required under section 123(b) of the Truth in Lending Act (15 U.S.C. 1601 et seq.), to be given the debtor, or to the extent this annual percentage rate is not readily available or not applicable, then:

"(II) such act is in the ordinary course of business between the creditor and the debtor; and

"(iii) if, at the time the petition is filed, the debt is closed end credit as defined under the Truth in Lending Act (15 U.S.C. 1601 et seq.), then:

"(I) the annual percentage rate determined under paragraphs (5) and (6) of section 123(b) of the Truth in Lending Act (15 U.S.C. 1637(b) (5) and (6), as applicable, as disclosed to the debtor in the most recent periodic statement prior to the agreement or, if no such periodic statement has been provided the debtor during the prior 6 months, the annual percentage rate as it would be showed at the time the disclosure statement is given to the debtor, or to the extent this annual percentage rate is not readily available or not applicable, then:

"(II) the simple interest rate applicable to the amount reaffirmed as of the date the disclosure statement is given to the debtor, or, if different simple interest rates apply to different balances, the simple interest rate applicable to each such balance, identifying the amount of each such balance included in the amount reaffirmed (Amount Reaffirmed) and the 'Annual Percentage Rate' shall be determined in accordance with the Truth in Lending Act (15 U.S.C. 1601 et seq.), and shall be the only disclosures required in connection with the reaffirmation. The terms 'Amount Reaffirmed' and 'Annual Percentage Rate' shall be disclosed more conspicuously than other terms, and the information disclosed with this exception, that the phrases 'Before agreeing to reaffirm a debt, review these important disclosures' and 'Summary of Reaffirmation Agreement' may be equally conspicuous. Disclosures may be made in a different order and may use terminology different from that set forth in paragraphs (2) through (8), except the 'Amount Reaffirmed' and 'Annual Percentage Rate' must be used where indicated.

"(III) if, at the time the petition is filed, the amount of debt you have agreed to reaffirm:

"(IV) 'Your credit agreement may obligate you to pay additional amounts which may come due after the date of this disclosure. Consult your credit agreement.'

"(E) The 'Annual Percentage Rate', using that term, which shall be disclosed as—

"(I) if, at the time the petition is filed, the debt is open end credit as defined under the Truth in Lending Act (15 U.S.C. 1601 et seq.), then:

"(II) the annual percentage rate determined under paragraphs (5) and (6) of section 123(b) of the Truth in Lending Act (15 U.S.C. 1637(b) (5) and (6), as applicable, as disclosed to the debtor in the most recent periodic statement prior to the agreement or, if no such periodic statement has been provided the debtor during the prior 6 months, the annual percentage rate as it would be showed at the time the disclosure statement is given to the debtor, or to the extent this annual percentage rate is not readily available or not applicable, then:

"(II) the simple interest rate applicable to the amount reaffirmed as of the date the disclosure statement is given to the debtor, or, if different simple interest rates apply to different balances, the simple interest rate applicable to each such balance, identifying the amount of each such balance included in the amount reaffirmed (Amount Reaffirmed) and the 'Annual Percentage Rate' shall be determined in accordance with the Truth in Lending Act (15 U.S.C. 1601 et seq.), and shall be the only disclosures required in connection with the reaffirmation. The terms 'Amount Reaffirmed' and 'Annual Percentage Rate' shall be disclosed more conspicuously than other terms, and the information disclosed with this exception, that the phrases 'Before agreeing to reaffirm a debt, review these important disclosures' and 'Summary of Reaffirmation Agreement' may be equally conspicuous. Disclosures may be made in a different order and may use terminology different from that set forth in paragraphs (2) through (8), except the 'Amount Reaffirmed' and 'Annual Percentage Rate' must be used where indicated.

"(III) if, at the time the petition is filed, the debt is closed end credit as defined under the Truth in Lending Act (15 U.S.C. 1601 et seq.), then:

"(III) the entity making the disclosure elects to disclose the annual percentage rate under subclause (I) and the simple interest rate under subclause (II); and

"(IV) if, at the time the petition is filed, the debt is closed end credit as defined under the Truth in Lending Act (15 U.S.C. 1601 et seq.), then:

"(IV) if, at the time the petition is filed, the debt is closed end credit as defined under the Truth in Lending Act (15 U.S.C. 1601 et seq.), then:
to the extent this annual percentage rate is not readily available or not applicable, then

(ii) the simple interest rate applicable to the amount reaffirmed as of the date the disclosure agreement is filed with the court by the debtor, or if different simple interest rates apply to different balances, the simple interest rate applicable to each such balance, identifying the applicable Part C balance included in the amount reaffirmed, or

(iii) if the entity making the disclosure elects, to disclose the annual percentage rate under (I) and the simple interest rate under (II).

(F) If the underlying debt transaction was disclosed as a rate transaction on the most recent disclosure given under the Truth in Lending Act (15 U.S.C. 1601 et seq.), by stating 'The interest rate on your loan may vary, interest rates may change from time to time, so that the annual percentage rate disclosed here may be higher or lower.'.

(G) If the debt is secured by a security interest which has not been waived in whole or in part or determined to be void by a final order of the court at the time of the disclosure, by disclosing that a security interest or lien in goods or property is asserted over some or all of the obligations you are reaffirming and listing the items and their original purchase price that are subject to the asserted security interest, or if not a purchase-money security interest then listing by items or types and the original amount of each.

(H) At the election of the creditor, a statement of the repayment schedule using 1 or a combination of the following—

(i) by making the statement: 'Your first payment in the amount of $ is due on

but the future payment amount may be different than your reaffirmation or credit agreement, as applicable, and stating the amount of the first payment and the due date of the payment in the places provided;

(ii) by making the statement: 'Your payment schedule will be:, and describing the repayment schedule with the number, amount and due dates or period of payments scheduled to repay the obligations reaffirmed to the extent then known by the disclosing party or

(iii) by describing the debtor's repayment obligation which may have changed the terms of the original agreement. For example, if you are reaffirming an open end credit agreement, the creditor may be permitted by that agreement to change the terms of the agreement in the future under certain conditions.

Are you required to enter into a reaffirmation agreement by any law? No, you are not required to reaffirm a debt by any law. Only agree to reaffirm a debt if it is in your best interest. Be sure you can afford the payments you agree to make.

What if your creditor has a security interest or lien in your personal property? A "lien" is often referred to as a security interest or lien? Your bankruptcy discharge is canceled. The form of reaffirmation agreement may have changed the terms of the original agreement. For example, if you are reaffirming an open end credit agreement, the creditor may be permitted by that agreement to change the terms of the agreement in the future under certain conditions.

What are your obligations if you reaffirm the debt? A reaffirmed debt remains your personal legal obligation. It is not discharged in your bankruptcy. That means that if you default on your reaffirmed debt after your bankruptcy is over, your creditor may be able to take your property or your wages. Otherwise, your obligations will be determined by the reaffirmation agreement which may have changed the terms of the original agreement. For example, if you are reaffirming an open end credit agreement, the creditor may be permitted by that agreement to change the terms of the agreement in the future under certain conditions.

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"Part E: Motion for Court Approval (To be completed only where debtor is not represented by an attorney.). I, the debtor, affirm the following to be true and correct:

1. I am informed by an attorney in connection with this reaffirmation agreement.

2. I believe this agreement is in my best interest based on the income and expenses I have disclosed in my Statement in Support of this reaffirmation agreement above, and because any additional financial benefits the court should consider:

3. Therefore, I ask the court for an order approving the reaffirmation agreement described above.

4. Subsection (a)(2) does not operate as an injunction against an act by a creditor that is the holder of a secured claim, if—

5. (A) such creditor retains a security interest in real property that is the debtor’s principal residence;

6. (B) such act is in the ordinary course of business between the creditor and the debtor;

7. (C) such act is limited to seeking or obtaining periodic payments associated with a valid security interest in lieu of pursuit of an in rem remedy to enforce the lien.

8. (1) Notwithstanding any other provision of this title:

9. (a) A creditor may accept payments from a debtor before and after the filing of a reaffirmation agreement with the court.

10. (2) A creditor may accept payments from a debtor without a reaffirmation agreement that the creditor believes in good faith to be effective.

11. (3) The requirements of subsections (c)(2) and (c)(3) shall be satisfied if disclosures required under those subsections are given in good faith.

12. Until 60 days after a reaffirmation agreement is filed with the court (or such additional period as the court may determine), the individual described in subsection (b) shall address violations of section 152 or 157 relating to materially fraudulent statements in bankruptcy schedules.

13. After this section, the individuals described in subsection (a) to have the presumption may be rebutted in writing by the debtor if the statement includes an explanation which identifies additional sources of funds that person would be subject to such claims and defenses that person would be subject to all claims and defenses that are related to a material violation under subsection (c).

14. If the presumption is not rebutted, that obligation is assigned voluntarily by the spouse, former spouse, child, or parent, legal guardian, or responsible relative; or

15. (ii) a governmental unit;

16. (b) A/mandated by adding at the end the following:

17. (1) until 60 days after the date of enactment of this title, by reason of applicable provisions of—

18. (i) a separation agreement, divorce decree, or property settlement agreement;

19. (ii) an order of a court or other proceeding;

20. (iii) a determination made in accordance with applicable nonbankruptcy law by a governmental unit; and

21. (A) by striking “Third” and inserting “Fourth”;

22. (B) by striking the semicolon at the end and inserting a period.

23. In paragraph (5), as redesignated, by striking “Fourth” and inserting “Fifth”;

24. In paragraph (6), as redesignated, by striking “Fifth” and inserting “Sixth”;

25. In paragraph (7), as redesignated, by striking “Sixth” and inserting “Seventh”;

26. Until the date of entry of the order for relief under this title, that is—

27. (A) owed to or recoverable by—

28. (i) a spouse, former spouse, or child of the debtor or such child’s parent, legal guardian, or responsible relative; or

29. (ii) a governmental unit;

30. (B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child of the debtor or such child’s parent, without regard to whether such debt is expressly so designated;

31. (C) established or subject to establishment before or after entry of an order for reorganization under this title, by reason of applicable provisions of—

32. (i) a separation agreement, divorce decree, or property settlement agreement;

33. (ii) an order of a court or other proceeding;

34. (iii) a determination made in accordance with applicable nonbankruptcy law by a governmental unit; and

35. (A) by striking “Third” and inserting “Fourth”;

36. (B) by striking the semicolon at the end and inserting a period.

37. In paragraph (5), as redesignated, by striking “Fourth” and inserting “Fifth”;

38. In paragraph (6), as redesignated, by striking “Fifth” and inserting “Sixth”;

39. In paragraph (7), as redesignated, by striking “Sixth” and inserting “Seventh”;

40. Until the date of entry of the order for relief under this title, that is—

41. (A) owed to or recoverable by—

42. (i) a spouse, former spouse, or child of the debtor or such child’s parent, legal guardian, or responsible relative; or

43. (ii) a governmental unit;

44. (B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child of the debtor or such child’s parent, without regard to whether such debt is expressly so designated;

45. (C) established or subject to establishment before or after entry of an order for reorganization under this title, by reason of applicable provisions of—

46. (i) a separation agreement, divorce decree, or property settlement agreement;

47. (ii) an order of a court or other proceeding;

48. (iii) a determination made in accordance with applicable nonbankruptcy law by a governmental unit; and

49. (A) by striking “Third” and inserting “Fourth”;

50. (B) by striking the semicolon at the end and inserting a period.

51. In paragraph (5), as redesignated, by striking “Fourth” and inserting “Fifth”;

52. In paragraph (6), as redesignated, by striking “Fifth” and inserting “Sixth”;

53. In paragraph (7), as redesignated, by striking “Sixth” and inserting “Seventh”;

54. Until the date of entry of the order for relief under this title, that is—

55. (A) owed to or recoverable by—

56. (i) a spouse, former spouse, or child of the debtor or such child’s parent, legal guardian, or responsible relative; or

57. (ii) a governmental unit;

58. (B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child of the debtor or such child’s parent, without regard to whether such debt is expressly so designated;

59. (C) established or subject to establishment before or after entry of an order for reorganization under this title, by reason of applicable provisions of—

60. (i) a separation agreement, divorce decree, or property settlement agreement;

61. (ii) an order of a court or other proceeding;

62. (iii) a determination made in accordance with applicable nonbankruptcy law by a governmental unit; and

63. (A) by striking “Third” and inserting “Fourth”;

64. (B) by striking the semicolon at the end and inserting a period.

65. In paragraph (5), as redesignated, by striking “Fourth” and inserting “Fifth”;

66. In paragraph (6), as redesignated, by striking “Fifth” and inserting “Sixth”;

67. In paragraph (7), as redesignated, by striking “Sixth” and inserting “Seventh”;

68. Until the date of entry of the order for relief under this title, that is—

69. (A) owed to or recoverable by—

70. (i) a spouse, former spouse, or child of the debtor or such child’s parent, legal guardian, or responsible relative; or

71. (ii) a governmental unit;

72. (B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child of the debtor or such child’s parent, without regard to whether such debt is expressly so designated;
former spouse, child of the debtor, or such child’s parent, legal guardian, or responsible relative to a governmental unit (unless such obligation is assigned voluntarily by the spouse, child, parent, legal guardian, or responsible relative of the child for the purpose of collecting the debt) or are owed directly to or recoverable by a governmental unit under applicable nonbankruptcy law, on the condition that funds received under this paragraph by a governmental unit under this title after the date of filing of the petition are non-dischargeable under section 523(a)(6);”.

SEC. 213. REQUIREMENTS TO OBTAIN CONFIRMA-
TION AND DISCHARGE IN CASES IN-
VOLVING DOMESTIC SUPPORT OBLI-
GATIONS.

Title 11, United States Code, is amended—

(1) in section 1129(a), by adding at the end the following:

“(14) If the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order or statute for such obligation that first become payable after the date on which the petition is filed.”;

(2) in section 1208(c)—

(A) in paragraph (8), by striking “or” at the end;

(B) in paragraph (9), by striking the period at the end and inserting “; and”;

and

(C) by adding at the end the following: “(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor’s projected disposable income for a 5-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.”;

(3) in section 1222(a)—

(A) in paragraph (2), by striking “and” at the end;

(B) in paragraph (3), by striking the period at the end and inserting “; and”;

and

(C) by adding at the end the following: “(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor’s projected disposable income for a 5-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.”;

(4) in section 1223(b)—

(A) by redesigning paragraph (11) as paragraph (12); and

(B) inserting after paragraph (10) the following:

“(11) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are non-
dischARGEABLE under section 1232(a), except that such interest may be paid only to the extent that the debtor has disposable income available after making provision for full payment of all allowed claims;”;

(5) in section 1225(a)—

(A) in paragraph (5), by striking “and” at the end;

(B) in paragraph (6), by striking the period at the end and inserting “; and”;

and

(C) by adding at the end the following: “(7) if the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order or statute for such obligation that first become payable after the date on which the petition is filed.”;

(6) in section 1228(a), in the matter preceding paragraph (1), by inserting “; and”, and in the case of a debtor who is required by a ju-
dicial or administrative order to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or statute that are due on or be-
fore the date of the certification (including amounts due before the petition was filed, but only to the extent provided for in the plan) have been paid” after “completion by the debtor of all payments under the plan”;

(7) in section 1307(c)—

(A) in paragraph (9), by striking “or” at the end;

(B) in paragraph (10), by striking the period at the end and inserting “; or”;

and

(C) by adding at the end the following: “(l) failure of the debtor to pay any do-
mestic support obligation that first becomes payable after the date on which the petition is filed.”;

(8) in section 1322(a)—

(A) in paragraph (2), by striking “and” at the end;

(B) in paragraph (3), by striking the period at the end and inserting “; and”;

and

(C) by adding at the end the following: “(14) If the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation that first becomes payable after the date on which the petition is filed.”;

(9) in section 1322(b)—

(A) in paragraph (9), by striking “; and” and inserting a semicolon.

(B) by redesigning paragraph (10) as paragraph (11); and

(C) inserting after paragraph (9) the fol-

lowing: “(10) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are non-
dischARGEABLE under section 1322(a), except that such interest may be paid only to the extent that the debtor has disposable income available after making provision for full payment of all allowed claims;”;

(10) in section 1325(a) (as amended by this Act), by adding at the end the following:

“(8) the debtor is required by a judicial or administrative order or statute to pay a do-
mestic support obligation, the debtor has paid all amounts payable under such order or statute for such obligation that first be-
comes payable after the date on which the petition is filed.”;

(11) in section 1328(a), in the matter pre-
ceding paragraph (1), by inserting “; and”, and in the case of a debtor who is required by a ju-
dicial or administrative order or statute to pay a do-
mestic support obligation, after such debtor certifies that all amounts payable under such order or statute that are due on or be-
fore the date of the certification (including amounts due before the petition was filed, but only to the extent provided for in the plan) have been paid” after “completion by the debtor of all payments under the plan”.

SEC. 214. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC SUPPORT OBLIGATION PROCEEDINGS.

Section 362(b)(2) of title 11, United States Code, is amended by inserting “or for a 5-year period beginning on the date that the first payment is due under the plan”.

SEC. 215. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

Section 523 of title 11, United States Code, is amended—

(1) in subsection (a), by striking paragraph (5) and inserting the following:

“(5) for a domestic support obligation;”;

(2) in subsection (b), by inserting “a spouse, former spouse, child or child of the debtor and” before “not of the kind”;

(i) for the establishment of paternity;

(ii) for the enforcement of child support;”;

(iii) or, after “court of record,” and

(iv) by striking “unless” and all that fol-

lows through the end of the paragraph and inserting “or”;

and

(C) by striking paragraphs (18) and

(2) in subsection (c), by striking “(6), or” and “(15)” each place it appears and inserting “or” and

SEC. 216. CONTINUED LIABILITY OF PROPERTY.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (c), by striking paragraph (1) and inserting the following:

“(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) (in which case, not-

withstanding any provision of applicable nonbankruptcy law), such property shall be liable for a debt of a kind specified in section 523(a)(5));”;

(2) in subsection (f)(1)(A), by striking the dash and all that follows through the end of the subparagraph and inserting “of a kind that is specified in section 523(a)(5));”;

or

(3) in subsection (g)(2), by striking “subsection” and inserting “subsection” and

SEC. 217. PROTECTION OF DOMESTIC SUPPORT CLAIMS AGAINST PREFERENTIAL TRANSFER MOTIONS.

Section 547(c)(7) of title 11, United States Code, is amended to read as follows:

“(7) to the extent such transfer is a bona

fide payment of a debt of a domestic support obligation;”.

SEC. 218. DISPOSABLE INCOME DEFINED.

(a) CONFIRMATION OF PLAN UNDER CHAPTER 13.—Section 1225(b)(2)(a) of title 11, United States Code, is amended by inserting “or for a domestic support obligation that first be-
comes payable after the date on which the petition is filed” after “dependent of the debtor”.

(b) CONFIRMATION OF PLAN UNDER CHAPTER 13.—Section 1225(b)(2)(a) of title 11, United States Code, is amended by inserting “or for a domestic support obligation that first be-
comes payable after the date on which the petition is filed” after “dependent of the debtor”.

March 19, 2001

CONGRESSIONAL RECORD — SENATE
S2489
SEC. 219. COLLECTION OF CHILD SUPPORT.

(a) DUTIES OF TRUSTEE UNDER CHAPTER 7.—Section 704 of title 11, United States Code, as amended by this Act, is amended—

(1) in subsection (a) (inserting a semicolon after subparagraph (G));

(A) in paragraph (8), by striking “and” at the end;

(B) in paragraph (9), by striking the period and inserting “; and”;

(C) by adding at the end the following: “(10) if, with respect to an individual debtor, there is a claim for a domestic support obligation, provide the applicable notification specified in subsection (c); and”;

(2) by adding at the end:

```
(c)(1) In any case described in subsection (a)(10), the trustee shall—

(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664, 666) for the State in which the holder resides for assistance in collecting child support during and after the bankruptcy procedures;

(ii) include in the notice under this paragraph the address and telephone number of the State child support enforcement agency; and

(iii) at such time as the debtor is granted a discharge under section 727, notify the holder of the claim and the State child support agency of the State in which that holder resides of—

(I) the granting of the discharge;

(II) the last recent known address of the debtor;

(III) the last recent known name and address of the employer's address of the employer; and

(IV) with respect to the debtor's case, the name of each creditor that holds a claim that—

(aa) is not discharged under paragraphs (2), (3), or (14) of section 523(a); or

(bb) was reaffirmed by the debtor under section 524(c).
```

(2)(A) A holder of a claim or a State child support agency may request from a creditor described in paragraph (1)(B)(iii)(IV) the last known address of the debtor.

(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.’’.

(b) DUTIES OF TRUSTEE UNDER CHAPTER 11.—Section 1106 of title 11, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking “and” at the end;

(B) in paragraph (7), by striking the period and inserting “; and”;

(C) by adding at the end the following:

```
(c)(1) In any case described in subsection (a)(7), the trustee shall—

(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664, 666) for the State in which the holder resides; and

(ii) include in the notice under this paragraph the address and telephone number of the State child support agency; and

(iii) at such time as the debtor is granted a discharge under section 1141, notify the holder of the claim and the State child support agency of the State in which that holder resides of—

(I) the granting of the discharge;

(II) the last recent known address of the debtor;

(III) the last recent known name and address of the debtor's employer; and

(IV) with respect to the debtor's case, the name of each creditor that holds a claim that—

(aa) is not discharged under paragraph (2), (3), or (14) of section 523(a); or

(bb) was reaffirmed by the debtor under section 524(c).
```

(2)(A) A holder of a claim or a State child support agency may request from a creditor described in paragraph (1)(B)(iii)(IV) the last known address of the debtor.

(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.’’.

(c) DUTIES OF TRUSTEE UNDER CHAPTER 13.—Section 1302 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking “and” at the end;

(B) in paragraph (5), by striking the period and inserting “; and”;

(C) by adding at the end the following:

```
(c)(1) In any case described in subsection (b)(6), the trustee shall—

(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664, 666) for the State in which the holder resides; and

(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and

(B)(i) notify, in writing, the State child support agency of the State in which the holder resides of—

(I) the granting of the discharge;

(II) the last recent known address of the debtor;

(III) the last recent known name and address of the employer; and

(IV) with respect to the debtor's case, the name of each creditor that holds a claim that—

(aa) is not discharged under paragraph (2), (3), or (14) of section 523(a); or

(bb) was reaffirmed by the debtor under section 524(c).
```

(2)(A) A holder of a claim or a State child support agency may request from a creditor described in paragraph (1)(B)(iii)(IV) the last known address of the debtor.

(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.’’.

(d) DUTIES OF TRUSTEE UNDER CHAPTER 12.—Section 1202 of title 11, United States Code, is amended—

(1) in subsection (b)—

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

(B) in paragraph (2), by striking the period and inserting “; and”;

(C) by adding at the end the following:

```
(d)(1) In any case described in subsection (b)(6), the trustee shall—

(A)(i) notifying the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664, 666) for the State in which the holder resides; and

(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and

(B)(i) notify, in writing, the State child support agency of the State in which the holder resides of—

(I) the granting of the discharge;

(II) the last recent known address of the debtor;

(III) the last recent known name and address of the employer; and

(IV) with respect to the debtor's case, the name of each creditor that holds a claim that—

(aa) is not discharged under paragraph (2), (3), or (14) of section 523(a); or

(bb) was reaffirmed by the debtor under section 524(c).
```

(2)(A) A holder of a claim or a State child support agency may request from a creditor described in paragraph (1)(B)(iii)(IV) the last known address of the debtor.

(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.’’.

SEC. 220. NONDISCHARGEABILITY OF CERTAIN EDUCATIONAL BENEFITS AND LOANS.

Section 523(a) of title 11, United States Code, is amended by striking paragraph (8) and inserting the following:

(8) unless excepting such debt from discharge under this paragraph would impose an undue hardship on the debtor and the debtor's dependents, for—

(A)(i) an educational benefit overpayment or loan made, insured, or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution; or

(B) an obligation to repay funds received as an educational benefit, scholarship, or stipend; or

SEC. 221. NONDISCHARGEABILITY OF CERTAIN TAX DEBT.

Section 523(a) of title 11, United States Code, is amended—

(1) in subsection (a)(1)—

(A)(i) by adding at the end

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(B)(i) notify, in writing, the State child support agency of the State in which the holder resides of—

(I) the granting of the discharge;

(II) the last recent known address of the debtor;

(III) the last recent known name and address of the employer; and

(IV) with respect to the debtor's case, the name of each creditor that holds a claim that—

(aa) is not discharged under paragraph (2), (3), or (14) of section 523(a); or

(bb) was reaffirmed by the debtor under section 524(c).
```

(2)(A) A holder of a claim or a State child support agency may request from a creditor described in paragraph (1)(B)(iii)(IV) the last known address of the debtor.

(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.’’.
(B) any other educational loan that is a qualified education loan, as that term is defined in section 221(e)(1) of the Internal Revenue Code of 1986, incurred by an individual debtor and so long as the debtor is not an individual, the identifying number of the Social Security account number of the debtor;''.

(2) in subsection (b)—

(A) by striking paragraph (2);

(B) by striking paragraph (2), as redesignated, through (4) as paragraphs (2) through (5), respectively;

(C) by inserting after paragraph (2), as redesignated, the following:

"(3) the Social Security account number of the debtor;''.

(3) in subsection (c)—

(A) in paragraph (2)—

(i) by striking "(2) For purposes" and inserting "(2)(A) Subject to subparagraph (B), for purposes of paragraph (2),'';

(ii) by adding at the end the following: "(B) Fines imposed under this subsection relating to the use of an educational loan that is a qualified education loan, as that term is defined in section 221(e)(1) of the Internal Revenue Code of 1986, incurred by an individual debtor and so long as the debtor is not an individual, the identifying number of the Social Security account number of the debtor;''.

(B) by striking paragraph (3);

(C) by striking paragraph (2), as redesignated, through (4) as paragraphs (2) through (5), respectively;

(D) by inserting after paragraph (2)(A), as redesignated—

"(B) any other educational loan that is a qualified education loan, as that term is defined in section 221(e)(1) of the Internal Revenue Code of 1986, incurred by an individual debtor and so long as the debtor is not an individual, the identifying number of the Social Security account number of the debtor;''

(4) in subsection (d)—

(A) by striking "(d)(1)" and inserting "(d)'';

(B) by striking paragraph (2);

(C) by striking paragraph (2), as redesignated, through (4) as paragraphs (2) through (5), respectively;

(D) by inserting after paragraph (2)(A), as redesignated—

"(B) any other educational loan that is a qualified education loan, as that term is defined in section 221(e)(1) of the Internal Revenue Code of 1986, incurred by an individual debtor and so long as the debtor is not an individual, the identifying number of the Social Security account number of the debtor;''.

SEC. 222. SENATE OF CONGRESS.

It is the sense of Congress that States should develop curricula relating to the subject of personal finance, designed for use in elementary and secondary schools.

SEC. 223. ADDITIONAL PROVISIONS TO TITLE 11, UNITED STATES CODE.

Section 507(a) of title 11, United States Code, is amended by inserting after paragraph (9) the following:

"(10) Tenth, allowed claims for death or personal injuries resulting from the operation of a motor vehicle or vessel if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug, or another substance."
SEC. 224. PROTECTION OF RETIREMENT SAVINGS IN BANKRUPTCY.

(a) In GENERAL.—Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(ii) in subparagraph (A), by striking “and” at the end;

(B) by adding at the end the following:

"(3) in subsection (c), by striking "portion of any" and inserting "portion of the";

(C) in paragraph (4), by striking "or" and inserting "and"; and

(D) by adding at the end the following:

"(4) in paragraph (5)—

(A) by striking paragraph (2) and inserting the following:

"(2) Property listed in this subsection is property that is specified under subsection (d), unless the State law that is applicable to the debtor under paragraph (3)(A) specifically does not so authorize;",

(B) by striking "(b)(1) Notwithstanding" and inserting "(b)(1) Notwithstanding;";

(C) by striking paragraph (2) and inserting the following:

"(2) Each place it appears and inserting "paragraph (2)";

(D) by striking "Such property is—" and inserting "by the employer of the debtor, or an affiliate, successor, or predecesor of such firm;"

(E) in subparagraph (B), by striking the period at the end.

(b) PLAN CONTENTS.—Section 1322 of title 11, United States Code, is amended by adding at the end the following:

"(3) Property listed in this paragraph is—

(A) a loan permitted under section 408(b)(1) of the Employee Retirement Income Security Act of 1974, or a contract or account under section 408(b)(1)(A) or subsection (a)(4)(D); and

(B) a loan from a thrift savings plan described in subsection (a) of section 4973(e) of the Internal Revenue Code of 1986, or a contract or account under section 408(b)(1)(A) or subsection (a)(4)(D); and

(C) funds placed in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) not later than 365 days before the date of filing of the petition, but

(d) Exceptions to discharge.—Section 522(a) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

"(4) in paragraph (2), by striking "portion of the" and inserting "portion of any"; and

(E) in paragraph (3), by striking "or" and inserting "and"; and

(F) in paragraph (4), by striking "or" and inserting "and"; and

(G) by adding at the end the following:

"(5) Nothing in paragraph (19) may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b) of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title."

(c) Exceptions To Discharge.—Section 522(a) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

"(6) in paragraph (2), by striking "portion of the" and inserting "portion of any"; and

(E) in paragraph (3), by striking "or" and inserting "and"; and

(F) by striking "or" and inserting "and"; and

(G) by adding at the end the following:

"(7) Nothing in paragraph (19) may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b) of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title."

(d) Authorization to make loans.—Section 4973(e) of the Internal Revenue Code of 1986, as amended by this Act, is amended by adding at the end the following:

"(I) funds placed in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) not later than 365 days before the date of filing of the petition, but

(e) In determining whether any of the relationships specified in paragraph (5)(A) or (6)(A) of subsection (b) exists, a legally adopted child of an individual is an individual (if such child has as the child's principal place of abode the home of the debtor under this section, without regard to amounts attributable to rollover contributions under section 402(c), 402(e)(6), 403(a)(4), 403(b)(5), and 408(b)(6) of the Internal Revenue Code of 1986, other than a simplified employee pension under section 403(b)(19) of such Code, shall not exceed $1,000,000 (which amount shall be adjusted as provided in section 101 of such title). If, however, such individual is the child of an individual debtor, except that such amount may be increased if the interests of justice so require."
and is a member of the debtor’s household) shall be treated as a child of such individual by blood.’’.

(b) DEBTOR’S DUTIES.—Section 521 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

‘‘§ 521. In addition to meeting the requirements under subsection (a), a debtor shall file with the court a record of any interest that a debtor has in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) or under a qualified State tuition program (as defined in section 529(b)(1) of such Code).’’

SEC. 226. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (2) the following:

‘‘(3) ‘assisted person’ means any person whose debts consist primarily of consumer debts and whose non-exempt assets are less than $150,000;’’;

(2) by inserting after paragraph (4) the following:

‘‘(4) a ‘bankruptcy assistance’ means any services performed as part of preparing a petition under this title, or attending at a creditors’ meeting or other court proceeding or other bankruptcy proceeding, including any liability under paragraph (2); and

(3) by inserting after paragraph (12) the following:

‘‘(12) ‘debt relief agency’ means any person that provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer under section 110, but does not include—

(A) any person that is an officer, director, employee or agent of that person;

(B) a nonprofit organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

(C) a creditor of the person, to the extent that the creditor is assisting the person to incur more debt in contemplation of such person filing a case under this title or to pay an attorney or bankruptcy petition preparer fee charged for services performed as part of preparing or representing a debtor in a case under this title.

and that failure to comply with any provision of this section, section 527, or section 528 shall—

(1) be treated as a violation of this section, or engaged in a clear and deliberate pattern or practice of violating this section, the court may—

(A) enjoin the violation of such section; or

(B) impose an appropriate civil penalty against such person.’’;

(d) No provision of this section, section 525, or section 528 shall—

(1) annul, alter, affect, or exempt any person subject to such sections from complying with any law of any State except to the extent that such law is inconsistent with those sections, and then only to the extent of the inconsistency; or

(2) be deemed to limit or curtail the authority or ability—

(A) of a State or subdivision or instrumentality thereof, to determine and enforce qualifications for the practice of law under the laws of that State;

(B) of a Federal court to determine and enforce the qualifications for the practice of law before that court.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting before the item relating to section 527, the following:

§ 526. Debt relief enforcement.

SEC. 228. DISCLOSURES.

(a) DISCLOSURES.—Subchapter II of chapter 5 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

‘‘§ 527. Disclosures.

A debt relief agency providing bankruptcy assistance to an assisted person shall provide—

(1) the written notice required under section 527(b)(1) of this title; and

(2) to the extent not covered in the written notice described in paragraph (1), and not later than 3 business days after the first date on which a debt relief agency first offers to provide any bankruptcy assistance services to an assisted person, a clear and conspicuous written notice advising assisted persons that—

(A) all information that the assisted person is required to provide with a petition and thereafter during a case under this title is required to be complete, accurate, and truthful;

(B) all assets and all liabilities are required to be completely and accurately disclosed in the documents filed to commence a case under chapter 11, 12, or 13, and such information must be complete, accurate, and truthful;

(C) the current monthly income, the amounts specified in section 707(b)(2), and, in a case under chapter 13, disposable income (determined in accordance with section 707(b)(2)), are required to be stated after reasonable inquiry;

(D) the determination of the value of the debtor’s real estate; and

(E) the determination of the value of the debtor’s personal property;

and that failure to comply with any provision of this section, section 527, or section 528 shall—

(1) be treated as a violation of this section, or engaged in a clear and deliberate pattern or practice of violating this section, the court may—

(A) enjoin the violation of such section; or

(B) impose an appropriate civil penalty against such person.’’;

(2) by inserting after paragraph (6) the following:

‘‘(7) ‘bankruptcy assistance to an assisted person’ means any services performed as part of preparing a petition under this title, or attending at a creditors’ meeting or other bankruptcy proceeding, including any liability under paragraph (2); and

(3) by inserting the following after section 527:

‘‘§ 528. Debt relief enforcement.

A debt relief agency providing bankruptcy assistance to an assisted person shall provide—

(1) the written notice required under section 527(b)(1) of this title; and

(2) to the extent not covered in the written notice described in paragraph (1), and not later than 3 business days after the first date on which a debt relief agency first offers to provide any bankruptcy assistance services to an assisted person, a clear and conspicuous written notice advising assisted persons that—

(A) all information that the assisted person is required to provide with a petition and thereafter during a case under this title is required to be complete, accurate, and truthful;

(B) all assets and all liabilities are required to be completely and accurately disclosed in the documents filed to commence a case under chapter 11, 12, or 13, and such information must be complete, accurate, and truthful;

(C) the current monthly income, the amounts specified in section 707(b)(2), and, in a case under chapter 13, disposable income (determined in accordance with section 707(b)(2)), are required to be stated after reasonable inquiry;

(D) the determination of the value of the debtor’s real estate; and

(E) the determination of the value of the debtor’s personal property;
If you decide to seek bankruptcy relief, you can represent yourself, or you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer. In some cases, the law requires an attorney or bankruptcy petition preparer to give you certain information, to file certain papers on your behalf, and to be paid by you. You should also know that the law does not require an attorney or bankruptcy petition preparer to give you certain information, to file certain papers on your behalf, and to be paid by you.

The following information helps you understand your eligibility for different forms of debt relief made available by the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs, as well as in some cases a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will need to file for bankruptcy when you are unable to pay your debts. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a "trustee" and creditors.

If you choose to file a chapter 7 case, you may be able to have a creditor reform a debt. You may want help deciding whether to do so and a creditor is not permitted to pressure you into reaffirming your debt(s). If you file a chapter 13 case in which you repay your creditors what you can afford over 3 to 5 years, you may also want help working things out with your chapter 13 plan. In some cases a confirmation hearing will be before a bankruptcy judge.

Under types of relief under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out what needs to be done from someone familiar with that type of relief.

Your bankruptcy case may also involve litigation. You are generally permitted to represent yourself in a bankruptcy case, but only attorneys, not bankruptcy petition preparers, can give you legal advice.

Except to the extent the debt relief agency provides the required information itself after reasonably diligent inquiry of the assisted persons as to or on their behalf, information reasonably accurate for inclusion in the petition, schedules or statement of financial affairs, a debt relief agency providing bankruptcy assistance to an assisted person, to the extent permitted by nonbankruptcy law, shall provide each assisted person with information about the individual to unaffiliated third persons, and the policy remains in effect at the time of the bankruptcy filing, the trustee may not sell or lease such personally identifiable information to any person, unless—

(A) the sale is consistent with such prohibition; or

(B) the court, after notice and hearing and due consideration of the facts, circumstances, and conditions of the sale or lease, approves the sale or lease.

SEC. 231. PROTECTION OF NONPUBLIC PERSONAL INFORMATION.

(a) IN GENERAL.—Section 363(b)(1) of title 11, United States Code, is amended by striking the period at the end and adding the following:

"(41A) "personally identifiable information," if provided by the individual to the debtor in connection with obtaining a product or service from the debtor primarily for personal, family, or household purposes—

(A) means—

(i) the individual's first name (or initials) and last name, whether given at birth or adoption or legally changed;

(ii) the individual's e-mail address;

(iii) the individual's home telephone number;

(iv) the individual's home address; or

(v) the individual's driver's license number; and

(vi) the individual's credit card account number; and

(B) means, when identified in connection with one or more of the items of information listed in subparagraph (A)—

(i) an individual's birth date, birth certificate number, or place of birth; or

(ii) any other information concerning an individual's individual or personal characteristics, and, if disclosed, will result in the physical or electronic contacting or identification of that person;"

SEC. 232. CONSUMER PRIVACY OMBUDSMAN.

(a) IN GENERAL.—

(1) APPOINTMENT ON REQUEST.—If the trustee chooses to sell or lease personally identifiable information in a manner which requires a hearing described in section 363(b)(1)(B), the trustee shall request, and the court shall appoint, an individual to serve as ombudsman during the case not later than—

(A) on or before the expiration of 30 days after the date of the order for relief; or

(B) at any time prior to the expiration of 30 days after the date of the order for relief.

(2) STUDY.—Not later than 270 days after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study of the feasibility, effectiveness, and cost of requiring trustees appointed under title 11, United States Code, or the bankruptcy courts, to provide to the Office of Child Support Enforcement promptly after the commencement of cases by individual debtors under such title, the names and personally identifiable information for the purposes of allowing such Office to determine whether such debtors have outstanding obligations for child support (as determined on the basis of data maintained in the Federal Case Registry or other national database).

(b) REPORT.—Not later than 360 days after the expiration of paragraph (1), the Comptroller General shall submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report containing the results of the study required by subsection (a).
SEC. 302. DISCOURAGING BAD FAITH REPEAT BANKRUPTCY ABUSE

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(2) DUTIES OF OMBUDSMAN.—It shall be the duty of the ombudsman to provide the court information to assist the court in its consideration of the facts, circumstances, and conditions that the filing of the later case is in good faith as to the creditors to be stayed;

(3) by adding at the end the following:

(3) if a single or joint case is filed by or against an individual debtor under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed, other than a case that was dismissed in accordance with section 362(b) after the filing of the later case; and

(5) a case is presumptively filed not in good faith but such presumption may be rebutted by clear and convincing evidence to the contrary.

(ii) to all creditors, if—

(i) more than 1 previous case under any of chapter 7, 11, or 13 in which the individual was a debtor was pending within the preceding 1-year period;

(ii) a previous case under any of chapter 7, 11, or 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to—

(aa) file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney); or

(bb) provide adequate protection as ordered by the court; or

(cc) perform the terms of a plan confirmed by the court; or

(iii) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under this title, or any case in which the individual was a debtor if, as of the date of dismissal of such case, such action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to action of such creditor.

SEC. 303. CURBING ABUSIVE FILING

(a) IN GENERAL.—Section 362(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking “or” at the end;

(2) in paragraph (3), by striking the period at the end and inserting “; or”;

and

(3) by adding at the end the following:

(3) multiple bankruptcy filings affecting the real property. If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under this subsection shall be binding in any other case that involved either—

(a) transfer of all or part ownership of, or any other reason to conclude that the later case will be confirmed by the court; or

(b) a case under chapter 7, with a discharge; or

(c) a case under chapter 11 or 12, with a confirmed plan which will be fully performed; and

(d) an automatic stay under subsection (a), of any act to encumber the real property under subsection (a), by a creditor whose claim is secured by an interest in such real estate, if the court finds that the filing of the bankruptcy case was part of a scheme to delay, hinder, and defraud creditors that involved either—

(i) an order allowing the stay to go into effect; and

(ii) under subsection (a), of any act to enforce any lien against the real property or under subsection (a), by a creditor whose claim is secured by an interest in such real estate, if the court finds that the filing of the bankruptcy case was part of a scheme to delay, hinder, and defraud creditors that involved either—

A transfer of all or part ownership of, or any other reason to conclude that the later case will be confirmed by the court; or

or

(b) automatic stay.—Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (19), as added by the amendment for indexing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept any certified copy of an order described in this subsection for indexing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept any certified copy of an order described in this subsection for indexing.

SEC. 302. DISCOURAGING BAD FAITH REPEAT FILINGS

Section 362(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking “and” at the end;
real property following the entry of an order under section 362(d)(4) as to that property in any prior bankruptcy case for a period of 2 years after entry of such an order, except that in the 1-year period following the date of the bankruptcy court order in a prior bankruptcy case prohibiting the debtor from being a debtor in another bankruptcy case;''

SEC. 305. RELIEF FROM THE AUTOMATIC STAY WHEN THE DEBTOR DOES NOT COMPLY WITH MANDATORY CONDITIONS.

Title II, United States Code, is amended—
(1) in section 362—
(A) in subsection (c), by striking ``(c)'' and inserting ``(c)'' and ``(d)'' and inserting ``(d)'' and ``(e)'' and inserting ``(e)'' and ``(f)'' and inserting ``(f)'' and ``(g)''; and
(B) by redesignating subsection (h) as subsection (i);
and
(2) by inserting after subsection (g) the following:

``(h) In an individual case under chapter 7, 11, or 13, the stay provided by subsection (a) is terminated with respect to personal property of the estate or of the debtor securing in whole or in part a claim, subject to an unexpired lease, and such personal property shall be property of a bankruptcy court order in a prior bankruptcy case prohibiting the debtor from being a debtor in another bankruptcy case.''

SEC. 306. GIVING SECURED CREDITORS FAIR TREATMENT AND A SUREDOOMED MORTGAGE DEBTOR COLLATERAL.

Title II, United States Code, is amended—
(1) in section 362—
(A) in subsection (c), by striking ``(c)'' and inserting ``(c)'' and ``(d)'' and inserting ``(d)'' and ``(e)'' and inserting ``(e)'' and ``(f)'' and inserting ``(f)'' and ``(g)''; and
(B) by redesignating subsection (h) as subsection (i);
and
(2) by inserting after subsection (g) the following:

``(h) In an individual case under chapter 7, 11, or 13, the stay provided by subsection (a) is terminated with respect to personal property of the estate or of the debtor securing in whole or in part a claim, subject to an unexpired lease, and such personal property shall be property of a bankruptcy court order in a prior bankruptcy case prohibiting the debtor from being a debtor in another bankruptcy case if the debtor fails within the applicable time set by section 521(a)(2) of this title—

``(A) to file timely any statement of intention required under section 521(a)(2) of this title with respect to that property or to indicate in that statement that the debtor will refrain from the use or possession of such property; or

(B) if the bankruptcy case was filed in violation of a bankruptcy court order in a prior bankruptcy case prohibiting the debtor from being a debtor in another bankruptcy case.''

SEC. 307. DOMICILIARY REQUIREMENTS FOR EXEMPTIONS.

Title II, United States Code, is amended—
(1) in subsection (b)(3)(A) of title II, United States Code, as so designated by this Act, is amended—
(A) by striking ``(180 days before and inserting ``(180 days before and''; and
(B) by inserting after paragraph (27), the following:

``(21) under subsection (a), of any act to enforce any lien against or security interest in any thing of value, if the debt was incurred within the 3-year period preceding the filing of the petition, and the collateral for that debt consists of a motor vehicle (as defined in section 522(f)(1) of title 11) acquired for the personal use of the debtor, or if collateral for that debt consists of any other thing of value, if the debt was incurred during the 1-year period preceding the filing.''

(C) definitions.—Section 101 of title 11, United States Code, as amended by this Act, as amended—

(1) by amending paragraph (13) the following:

``(13A) debtors principal residence—

(A) means a residential structure, including incidental property, without regard to whether that structure is attached to real property; and

(B) includes an individual condominium or cooperative unit, a mobile or manufactured home, or trailer;'' and

(2) by inserting after paragraph (27), the following:

``(27A) incidental property means, with respect to a debtors principal residence—

(A) property commonly conveyed with a principal residence in the area where the real estate is located;

(B) all easements, rights, appurtenances, fixtures, rents, royalties, mineral rights, oil or gas rights or profits, water rights, escrow funds, or insurance proceeds; and

(C) all replacements or additions;''.

SEC. 308. LIMITATION.

Section 522 of title II, United States Code, is amended—
(1) in subsection (b)(3)(A), as so designated by this Act, by inserting ``subject to subsection (d),'' before ``any property''; and

(2) by adding at the end the following new subsection:

``(d) As a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any amount of interest that exceeds, in the aggregate, $125,000 in value in—

(A) real or personal property that the debtor or a dependent of the debtor uses as a residence;

(B) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

(C) a burial plot for the debtor or a dependent of the debtor.

(2) The limitation under paragraph (1) shall not apply to an exemption claimed under subsection (b)(3)(A) by a family farmer for the principal residence of that family.''

SEC. 309. PROTECTING SECURED CREDITORS IN CHAPTER 13 CASES.

(A) Stopping Abusive Conversions From Chapter 13.—Section 348(c)(1) of title II, United States Code, is amended—

(1) by inserting after paragraph (A), by striking ``(and'' at the end; and

(2) in subparagraph (B)—

``(B) restoring the foundation for consumer credit to the extent recognized by applicable nonbankruptcy law and;''

``(c) the case under this chapter is dismissed or converted without completion of the bankruptcy case, the priority of the security interest shall also be retained by such holder to the extent recognized by applicable nonbankruptcy law and;''.
(A) by striking "in the converted case, with allowed secured claims" and inserting "only in a case converted to a case under chapter 11 or 12, but not in a case converted to a case under chapter 7, with allowed secured claims in cases under chapters 11 and 12"; and

(b) by striking the period and inserting "; and"

(c) by adding at the end the following: 

"(C) with respect to cases converted from chapter 13—

"(1) claim of any creditor holding security as of the date of the petition shall continue to be secured by that security unless the full amount of such claim determined under this subsection is in the form of periodic payments not later than the date of the filing of the plan or the order for relief, whichever is earlier, in the amount—

"(i) proposed by the plan to the trustee; or

"(ii) scheduled in a subparagraph (A) property directly to the lessor for that portion of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment, including the amount and date of payment; and

"(C) that provides adequate protection directly to a creditor holding an allowed claim secured by personal property to the extent the claim is attributable to the purchase of subject to a lease or securing a claim attributable in whole or in part to the purchase price of such property shall provide the lessor or secured creditor reasonable evidence that the seller is providing the trustee with evidence of such property, if the lessor files with the court a certification that such an eviction has been filed, the court shall become effective on the 15th day after the 30-day period preceding the date of filing of the petition, the debtor or another occupant of the leased premises—

"(A) commenced another case under this title; and

"(B) failed to make any rental payment that first became due under applicable nonbankruptcy law after the date of filing of the petition for that other case;"

(25) under subsection (a)(3), of an eviction action, to the extent that it seeks possession based on endangerment of property or the illegal use of controlled substances on the property, if the lessor files with the court a certification that such an eviction has been filed, the court shall become effective on the 15th day after the 30-day period preceding the date of filing of the petition, the debtor or another occupant of the leased premises—

"(A) commenced another case under this title; and

"(B) failed to make any rental payment that first became due under applicable nonbankruptcy law after the date of filing of the petition for that other case;"

SEC. 310. LIMITATION ON LUXURY GOODS.

Section 522(a)(2)(C) of title 11, United States Code, is amended to read as follows:

"(C)(i) consumer debts owed to a single creditor and aggregating more than $750 for luxury goods or services incurred by an individual debtor on or within 90 days before the order for relief under this title are presumed to be nondischargeable; and

(ii) cash advances aggregating more than $750 that are extensions of consumer credit under an open end credit plan obtained by an individual debtor on or within 70 days before the order for relief under this title are presumed to be nondischargeable; and

(iv) for purposes of this subparagraph—

"(I) the term 'extension of credit under an open end credit plan' means an extension of credit under an open end credit plan, within the meaning of the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.);

"(II) the term 'open end credit plan' has the meaning under section 103 of the Consumer Credit Protection Act (15 U.S.C. 1602); and

"(III) the term 'luxury goods or services' does not include personal property reasonably necessary for the support or maintenance of the debtor or a dependent of the debtor."
"Where a debtor makes a certification under subparagraph (A), the clerk of the court shall set a hearing on a date no later than 10 days after the date of the filing of the certification and shall provide written notice thereof. If the debtor can demonstrate to the satisfaction of the court that the rent payment due post-petition or 10 days prior to the petition date was paid prior to the filing of the debtor's certification under subparagraph (A), or that the situation giving rise to the exception in paragraph (25) does not exist or had been remedied to the court's satisfaction, then a stay under subsection (a) shall be in effect until the termination of the stay under this section. If the debtor cannot make a demonstration to the satisfaction of the court, the court shall order the stay under subsection (a) lifted forthwith. Where a debtor does not file a certification under subparagraph (A), the stay under subsection (a) shall be lifted by operation of law and the clerk of the court shall certify a copy of the bankruptcy docket as sufficient evidence that the automatic stay of subsection (a) is lifted."

SEC. 312. EXTENSION OF PERIOD BETWEEN BANKRUPTCY DISCHARGES.

Title 11, United States Code, is amended—

(1) in section 727(a)(8), by striking "six" and inserting "8"; and

(2) in section 1328, by inserting after subsection (a) the following:

"(c) Notwithstanding subsections (a) and (b), the court shall not grant a discharge of all debts provided for by the plan or disallowed under section 502, if the debtor has received a discharge—

"(I) in a case filed under chapter 7, 11, or 12 of this title during the three-year period preceding the date of the order for relief under this chapter, or

"(II) in a case filed under chapter 13 of this title during the two-year period preceding the date of the order for relief under this chapter, except that if the debtor demonstrates extreme hardship requiring that a chapter 13 case be filed, the court may shorten the two-year period."
SEC. 315. DISMISSAL FOR FAILURE TO MAKE PAYMENTS ON THE TIMELY BASIS.

(1) The procedures under paragraph (1) of section 324(b), as amended, by striking "After" and inserting the applicable commitment period.

SEC. 316. DISMISSAL FOR FAILURE TO TIMELY FILE OR PROVIDE REQUIRED INFORMATION.

Sec. 521 of title 11, United States Code, as amended, by amending section 1322(d) to read as follows: (A) by amending section 1322(d) to read as amended by adding at the end the following: "(j)(1) Notwithstanding section 707(a), and subject to paragraph (2), if an individual debtor in a case under title 11, United States Code, other than a case under chapter 7, fails to file all of the information required under subsection (a)(1) within 45 days after the filing of the petition commencing the case, the court shall automatically dismiss the case or, if cause is shown, shall dismiss the case effective on the 46th day after the filing of the petition."

SEC. 317. ADEQUATE TIME TO PREPARE FOR HEARING ON CONFIRMATION OF THE PLAN.

Section 1221 of title 11, United States Code, is amended—

(1) by striking "After" and inserting the following:

"(a) Except as provided in subsection (b) and after"; and

(2) by adding at the end the following: "(b) The hearing on confirmation of the plan may be held not earlier than 45 days but not later than 45 days after the date of the meeting of creditors under section 341(a)."

SEC. 318. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION IN CERTAIN CASES.

Title 11, United States Code, is amended—

(1) by amending section 1325(d) to read as follows: (d)(1) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than—

"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census;"

"(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census; or"

"(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals last reported by the Bureau of the Census, plus $525 per month for each individual in excess of 4, but the plan may not provide payments over a period that is longer than 5 years;"

(2) in section 1325(b)(1)(B), by striking "the applicable commitment period" and inserting "applicable commitment period";

(3) in section 1325(b), as amended by this Act, by adding at the end the following:

"(B) Notwithstanding section 521, as amended, the plan may not provide for payments over a period that is longer than 5 years;"

(4) in section 1329(c), by striking "three years" and inserting "the applicable commitment period under section 1325(b)(1)(B)."

SEC. 319. SENSE OF CONGRESS REGARDING EXTENSION OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE.

It is the sense of Congress that rule 9011 of the Federal Rules of Bankruptcy Procedure (11 U.S.C. App.) should be modified to include a requirement that all documents (including schedules), signed and unsigned, submitted to the court or to a trustee by debtors who represent themselves and debtors who are represented by an attorney be submitted on a good faith argument for the extension, modification, or reversal of existing law.
SEC. 320. PROMPT RELIEF FROM STAY IN INDIVIDUAL CASES.

Section 362(e) of title 11, United States Code, is amended

(1) in subsection ("(1)" after "(e)"; and

(2) by adding at the end the following:

""(2) Notwithstanding paragraph (1), in the case of a plan under chapter 7, 11, or 13, the stay under subsection (a) shall terminate on the date that is 60 days after a request is made by a party in interest under subsection (d), unless—

(A) a final decision is rendered by the court during the 60-day period beginning on the date of the request; or

(B) by adding at the end the following:

""""(1) by agreement of all parties in interest; or

(ii) by the court for such specific period of time as the court finds is required for good cause, as described in findings made by the court.""

SEC. 321. CHAPTER 11 CASES FILED BY INDIVIDUALS.

(a) PROPERTY OF THE ESTATE.—

(1) In general.—Subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end the following:

"1115. Property of the estate.

(a) In a case concerning an individual debtor, property of the estate includes, in addition to the property specified in section 541—

"(1) all property described in section 541 that the debtor acquires after the commencement of the case but before the confirmation of a plan, unless—

(i) by agreement of all parties in interest; or

(ii) by the court for such specific period of time as the court finds is required for good cause, as described in findings made by the court.

(b) EFFECT OF CONFIRMATION.—Section 1129(d)(1) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking "the confirmation of a plan does not discharge an individual debtor" and inserting "the debtor acquires after the commencement of the case but before the confirmation of the plan, unless—

(i) by agreement of all parties in interest; or

(ii) by the court for such specific period of time as the court finds is required for good cause, as described in findings made by the court.

(2) by adding at the end the following:

"(5) In a case concerning an individual—

(A) a final decision is rendered by the court during the 60-day period beginning on the date of the request; or

(B) by adding at the end the following:

""""(i) by agreement of all parties in interest; or

(ii) by the court for such specific period of time as the court finds is required for good cause, as described in findings made by the court.""

SEC. 322. EXCLUSIVE JURISDICTION IN MATTERS INVOLVING BANKRUPTCY PROFESSIONALS.

SEC. 327. FILING FEE INCREASE.

(a) ACTIONS UNDER CHAPTER 7 OR 13 OF TITLE 11, UNITED STATES CODE.—Section 1930(a) of title 28, United States Code, is amended by striking paragraph (1) and inserting the following:

""(1) A 40 percent increase in the amount of the filing fee established under section 1930(a)(1)(A) of this title in cases commenced under chapter 7 of title 11; and

""(B) A 0.05 percent increase in the amount of the filing fee established under section 1930(a)(1)(B) of this title in cases commenced under chapter 13 of title 11; and

(b) UNITED STATES TRUSTEE PROGRAM FUND.—Section 589(a)(1) of title 28, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

""(A) a 40 percent increase in the amount of the filing fee established under section 1930(a)(1)(A) of this title in cases commenced under chapter 7 of title 11; and

""(B) a 0.05 percent increase in the amount of the filing fee established under section 1930(a)(1)(B) of this title in cases commenced under chapter 13 of title 11; and

(2) in paragraph (2), by striking "‘one-half’" and inserting "‘three-fourths’"; and

(3) in paragraph (4), by striking "‘one-half’" and inserting "‘one hundred’";

(c) COLLECTION AND DEPOSIT OF MISCELLANEOUS BANKRUPTCY FEES.—Section 406(b) of
the Judiciary Appropriations Act, 1990 (28 U.S.C. 1931 note) is amended by striking "pursuant to 28 U.S.C. section 1990(b) and 30.76 per centum of the fees hereafter collected under 28 U.S.C. section 1990(a) and 25 percent of the fees hereafter collected under 28 U.S.C. section 1990(a)(1) and 25 percent of the fees collected under section 1990(a)(1) of that title, 30.00 percent of the fees collected under section 1990(a)(1)(B) of that title, and 25 percent of the fees collected under section 1990(a)(1)(B) of that title" and inserting "under section 1990(b) of title 28, United States Code, and 31.25 percent of the fees collected under section 1990b(3)(A) of that title, 30.00 percent of the fees collected under section 1990(a)(1)(B) of that title, and 25 percent of the fees collected under section 1990(a)(1)(B) of that title at the end of subparagraph (A) thereof and offsetting receipts to the fund established under section 1990 of that title".

SEC. 255. SHARING OF COMPENSATION.

Section 506(a) of title 11, United States Code, is amended by adding at the end the following:

"(c) This section shall not apply with respect to personal property securing an attorney acceptance of referrals.''.

SEC. 256. THE AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (24), as added by this Act, the following:

"(25) under subsection (a), of—

(1) the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization’s regulatory power;

(2) the enforcement of an order or decision, other than for monetary sanctions, obtained in an action by the securities self regulatory organization to enforce such organization’s regulatory power;

(3) any act taken by the securities self regulatory organization to delist, delete, or refuse to permit quotation of any stock that does not meet applicable regulatory requirements;".

SEC. 402. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 342 of title 11, United States Code, is amended by adding at the end the following:

"(a) Notwithstanding subsections (a) and (b), the court, on the request of a party in interest and after notice and a hearing, for cause may order that the United States trustee not convene a meeting of creditors or equity security holders if the debtor has filed a plan as to which the debtor solicited acceptances prior to the commencement of the case;".

SEC. 403. PROTECTION OF REFINANCE OF SECURITIES.

Subparagraphs (A), (B), and (C) of section 506(e)(2) of title 11, United States Code, are each amended by striking "10" each place it appears and inserting "36".

SEC. 404. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.

(a) IN GENERAL.—Section 365(d) of title 11, United States Code, is amended to read as follows:

"(a) Subject to subparagraph (b), in any case under any chapter of this title, an unexpired lease of nonresidential real property under which the debtor is the lessee shall be deemed rejected, and the lessor may immediately surrender nonresidential real property to the lessor, if the trustee does not assume or reject the unexpired lease by the earlier of—

(1) the date that is 120 days after the date of the order for relief; or

(2) the date of the entry of an order confirming a plan;".

"(b)(1) The court may extend the period determined under subparagraph (A), prior to
the expiration of the 120-day period, for 90 days upon motion of the trustee or lessor for cause.

(ii) If the court grants an extension under clause (i), the court may grant a subsequent extension only upon prior written consent of the lessor in each instance.

(b) EXCEPTION.—Section 365(y)(1) of title 11, United States Code, is amended by inserting at the end the following:

``subsection`` the first place it appears and inserting “(subsection)” after “subsection” the first place it appears and inserting “(subsection)” after “subsection” the first place it appears.

SEC. 405. CREDITORS AND EQUITY SECURITY HOLDERS COMMITTEE.

(a) APPOINTMENT.—Section 1102(a) of title 11, United States Code, is amended by adding at the end the following:

``(3) A committee appointed under subsection (a) shall—

``(A) provide access to information for creditors who—

``(i) hold claims of the kind represented by that committee; and

``(ii) are not appointed to the committee;

``(B) request comments from the creditors described in subparagraph (A); and

``(C) be subject to a court order that compels any additional report or disclosure to be made to the creditors described in subparagraph (A).''

SEC. 406. AMENDMENT TO SECTION 546 OF TITLE 11, UNITED STATES CODE.

Section 546 of title 11, United States Code, is amended—

(1) by redesignating the second subsection designated as subsection (g) (as added by section 332 of Public Law 103–394) as subsection (i); and

(2) in subsection (i), as so redesignated, by inserting “and subject to the prior rights of holders of other interests in such goods or the proceeds thereof,” after “consent of a creditor;” and

(3) by adding at the end the following:

``(j) Notwithstanding paragraphs (2) and (3) of section 545, the trustee may not avoid the proceeds thereof, ‘‘consent of a case filed by a debtor whose debts are not primarily consumer debts, the aggregate value of all property that constitutes or is affected by such transfer is less than $5,000.’’

SEC. 410. VENUE OF CERTAIN PROCEEDINGS.

Section 1409(b) of title 28, United States Code, is amended by inserting “; or,” after “and” in the end.

SEC. 411. PERIOD FOR FILING PLAN UNDER CHAPTER 11.

Section 1121(c) of title 11, United States Code, is amended—

(1) by striking “On” and inserting “(1)” Subject to paragraph (2), on; and

(2) by adding at the end the following:

``(2)(A) The 120-day period specified in paragraph (1) may not be extended beyond a date that is 18 months after the date of the order for relief.

``(B) The 180-day period specified in paragraph (1) may not be extended beyond a date that is 20 months after the date of the order for relief.

SEC. 412. FEES ARISING FROM CERTAIN OWNERSHIP INTERESTS.

Section 523(a)(16) of title 11, United States Code, is amended—

(1) by striking “dwelling” the first place it appears;

(2) by striking “ownership or” inserting “‘owner’s’;” and

(3) by striking “housing” the first place it appears;

and

(4) by striking “but only” and all that follows through “or a lot in a homeowners association,” after “a or” in the end.

SEC. 413. CREDITOR REPRESENTATION AT FIRST MEETING OF CREDITORS.

Section 341(c) of title 11, United States Code, is amended—

(1) in the paragraph—

(A) by striking “(A)” inserting “In” and inserting “In” and inserting “In”; and

(B) by inserting “to an examiner, trustee under chapter 7, or professional person after “awarded”; and

(2) by adding at the end the following:

``(B) In determining the amount of reasonable compensation to be awarded to a trustee, the court shall treat such compensation as a commission, based on section 326 of this title.

SEC. 408. POSTPETITION DISCLOSURE AND SOLICITATION.

Section 1125 of title 11, United States Code, is amended by adding at the end the following:

``(g) Notwithstanding subsection (b), an acceptance or rejection of the plan may be solicited from a holder of a claim or interest if such solicitation complies with applicable nonbankruptcy law and if such holder was solicited before the commencement of the case in a manner complying with applicable nonbankruptcy law.’’

SEC. 409. PREFERENCES.

Section 547(c) of title 11, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

``(2) To the extent that such transfer was in payment of a debt incurred by the debtor in the ordinary course of business or financial affairs of the debtor and the transferee, and such transfer was—

``(A) to a person in the ordinary course of business or financial affairs of the debtor and the transferee; or

``(B) made according to ordinary business terms;’’

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

(3) by adding at the end the following:

``(C) if, in a case filed by a debtor whose debts are not primarily consumer debts, the aggregate value of all property that constitutes or is affected by such transfer is less than $5,000.’’

SEC. 415. FACTORS FOR COMPENSATION OF PROFESSIONAL PERSONS.

Section 332(a)(3) of title 11, United States Code, as amended by this Act, is amended—

(1) in subparagraph (D), by striking “(and)” after the “or”;

(2) in redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following:

``(E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and

SEC. 416. APPOINTMENT OF ELECTED TRUSTEE.

Section 1109(b) of title 11, United States Code, is amended—

(1) by inserting “(1)” after “(b)”; and

(2) by adding at the end the following:

``(2) A person who is not a creditor, an equity security holder, or an individual who does not have an interest materially adverse to the interest of or any class of creditors or equity security holders, by reason of any direct or indirect relationship, connection with, or interest in, the debtor, or for any other reason;’’

SEC. 417. UTILITY SERVICE.

Section 366 of title 11, United States Code, is amended—

(1) in subsection (a), by striking “subsection” (b) and inserting “subsection” (b); and

(2) by adding at the end the following:

``(2)(A) If an eligible, disinterested trustee is elected at a meeting of creditors under paragraph (1), the United States trustee shall file a report certifying that election.

``(B) Upon the filing of a report under subparagraph (A)—

``(i) the trustee elected under paragraph (1) shall be considered to have been selected and appointed for purposes of this section; and

``(ii) the service of any trustee appointed under subsection (b) shall terminate.

``(3) In the case of any dispute arising out of an election described in subparagraph (A), the court shall resolve the dispute.’’

SEC. 418. REIMBURSEMENT OF FEES.

Section 362(b) of title 11, United States Code, is amended—

(1) in subsection (a), by striking “subsection” (b) and inserting “subsection” (b); and

(2) by adding at the end the following:

``(B) in the case of any dispute arising out of an election described in subparagraph (A), the court shall resolve the dispute.’’

SEC. 419. CONCLUSION.

SEC. 420. CONCLUSION.

SEC. 421. CONCLUSION.

SEC. 422. CONCLUSION.

SEC. 423. CONCLUSION.

SEC. 424. CONCLUSION.

SEC. 425. CONCLUSION.

SEC. 426. CONCLUSION.

SEC. 427. CONCLUSION.

SEC. 428. CONCLUSION.

SEC. 429. CONCLUSION.

SEC. 430. CONCLUSION.

SEC. 431. CONCLUSION.

SEC. 432. CONCLUSION.

SEC. 433. CONCLUSION.

SEC. 434. CONCLUSION.

SEC. 435. CONCLUSION.

SEC. 436. CONCLUSION.

SEC. 437. CONCLUSION.

SEC. 438. CONCLUSION.

SEC. 439. CONCLUSION.

SEC. 440. CONCLUSION.

SEC. 441. CONCLUSION.

SEC. 442. CONCLUSION.

SEC. 443. CONCLUSION.

SEC. 444. CONCLUSION.

SEC. 445. CONCLUSION.

SEC. 446. CONCLUSION.

SEC. 447. CONCLUSION.

SEC. 448. CONCLUSION.

SEC. 449. CONCLUSION.

SEC. 450. CONCLUSION.

SEC. 451. CONCLUSION.

SEC. 452. CONCLUSION.

SEC. 453. CONCLUSION.

SEC. 454. CONCLUSION.

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SEC. 461. CONCLUSION.

SEC. 462. CONCLUSION.

SEC. 463. CONCLUSION.

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SEC. 471. CONCLUSION.

SEC. 472. CONCLUSION.

SEC. 473. CONCLUSION.

SEC. 474. CONCLUSION.

SEC. 475. CONCLUSION.

SEC. 476. CONCLUSION.

SEC. 477. CONCLUSION.

SEC. 478. CONCLUSION.

SEC. 479. CONCLUSION.

SEC. 480. CONCLUSION.
alter, refuse, or discontinue utility service, if during the 30-day period beginning on the date of filing of the petition, the utility does not receive from the debtor or the trustee adequate assurance of payment for utility service that is satisfactory to the utility.

“(3)(A) On request of a party in interest and after notice and a hearing, the court may hold as a condition of the admission of the amendment in assurance of payment under paragraph (2).

“(B) In making a determination under this paragraph whether an assurance of payment is adequate, the court may not consider—

“(i) the absence of security before the date of filing of the petition;

“(ii) the payment by the debtor of charges for utility service for a timely manner before the date of filing of the petition; or

“(iii) the availability of an administrative expense priority.

“(4) Notwithstanding any other provision of law, with respect to a case subject to this subsection, a utility may recover or set off against a security deposit provided to the utility by the debtor before the date of filing of the petition without notice or order of the court.’.’.

SEC. 418. BANKRUPTCY FEES.

Section 3528 of title 28, United States Code, is amended—

(1) in subsection (a), by striking “Notwithstanding section 1915 of this title, the” and inserting “In determining whether the debtor’s interest in any entity referenced in paragraph (1) is the value, operations, and disbursements with projections in prior periods and disbursements with projections in prior periods.

(2) by adding at the end following:

“(f)(1) Under the procedures prescribed by the Judicial Conference of the United States, the district court or the bankruptcy court may waive the filing fee in a case under chapter 7 of title 11 for an individual if the court determines that such debtor has income less than 150 percent of the Federal poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved and is unable to pay that fee in installments. For purposes of this paragraph, the term “filing fee” means the filing required by subsection (a), or any other fee prescribed by the Judicial Conference under subsections (b) and (c) that is payable to the clerk upon the commencement of a case under chapter 7.

“(2) The district court or the bankruptcy court may waive for such debtors other fees prescribed under this section for other parties in interest for reasonably complete disclosure statements and plans of reorganization for small business debtors (as defined in section 101(51C) of title 11, United States Code, as amended by this Act), designed to achieve a practical balance between—

(1) the reasonable needs of the courts, the United States trustee, creditors, and other parties in interest for reasonably complete information; and

(2) economy and simplicity for debtors.

SEC. 419. MORE COMPLETE INFORMATION REGARDING ASSETS OF THE ESTATE.

(a) In General.

(1) Disclosure.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States, after consideration of the official position of the Director of the Executive Office for United States Trustees, shall propose for adoption amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms directing debtors under chapter 11 of title 11, United States Code, to disclose the information described in paragraph (2) by filing and serving periodic financial and other reports designed to provide such information.

(2) Information.—The information referred to in paragraph (1) is the value, operations, and disbursements with projections in prior periods and disbursements with projections in prior periods.

(b) Other Administrative Proceedings.—The purpose of the rules and reports under subsection (a) shall be to assist parties in interest taking steps to ensure that the debtor’s interest in any entity referred to in subsection (a)(2) is used for the payment of allowed claims against debtor.

SEC. 420. DUTIES WITH RESPECT TO A DEBTOR WHO FILES A PLAN—ADMINISTRATOR OF AN EMPLOYEE BENEFIT PLAN.

(a) In General.—Section 521(a) of title 11, United States Code, as so designated by section 106(d) of this Act, is amended—

(1) in paragraph (4), by striking “and” at the end;

(2) in paragraph (5), by striking the period at the end and inserting “; and”;

(3) by adding at the end following:

“(6) unless a trustee is serving in the case, if at the time of filing, the debtor, served as required by subsection (d) of Section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002) of an employee benefit plan, continue to perform the obligations required of the administrator.”.

(b) Duties of Trustees.—Section 704(a) of title 11, United States Code, as so designated and otherwise amended by this Act, is amended—

(1) in paragraph (10), by striking “and” at the end;

(2) in paragraph (11), by striking the period at the end and inserting “; and”;

(3) by adding at the end following:

“(12) where, at the time of the time of the commencement of the case, the debtor served as administrator, as defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002) of an employee benefit plan, continue to perform the obligations required of the administrator.”.

(c) Conforming Amendment.—Section 1125(a) of title 11, United States Code, is amended by inserting “debtor” after “small business”.

SEC. 431. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.

Section 1125 of title 11, United States Code, is amended—

(1) in subsection (a)(1), by inserting before the semicolon “and in determining whether a disclosure statement provides adequate information, the court shall consider the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information”;

(b) by striking subsection (f), and inserting the following:

“(f) Notwithstanding subsection (b), in a small business case—

(1) the court may determine that the plan itself provides adequate information and that a separate disclosure statement is not necessary;

(2) the court may approve a disclosure statement submitted on standard forms approved by the court or adopted under section 2075 of title 28;

(a)(3)(A) the courts may conditionally approve disclosure statement if the debtor provides adequate information to each holder of a claim or interest that is solicited, but (A) conditionally approved disclosure statement shall be mailed not later than 20 days before the date of the hearing on confirmation of the plan;

(4)(A) whether the debtor is—

“(i) in compliance in all materials respects with postpetition requirements imposed by the Administrative Committee of the Federal Rules of Bankruptcy Procedure; and

“(ii) timely filing tax returns and other required government filings and paying taxes and other administrative claims; and

(4) if the debtor is not in compliance with the requirements referred to in subparagraph

SEC. 432. DEFINITIONS.

(a) Definitions.—Section 101 of title 11, United States Code, as amended by this Act, is amended by striking paragraph (51C) and inserting the following:

“(51C) ‘small business case’ means a case filed under chapter 11 of title 11 in which the debtor is a small business debtor;

(51D) ‘small business debtor’ means—

(A) subject to subparagraph (B), means a person engaged in commercial or business activities (including any affiliate of such person) that is also a debtor under this title and excluding a person whose primary activity is the business of owning or operating real property or activities incidental there to (including lease of real property or liquidated secured and unsecured debts as of the date of the petition or the order for relief in an amount not more than $3,000,000 (excluding debts owed to 1 or more affiliates or insiders)) for a case in which the United States trustee has not appointed under section 1102(a)(1) a committee of unsecured creditors or where the court has determined that the committee of unsecured creditors is not sufficiently active and representative to provide effective oversight of the debtor; and

(B) does not include any member of a group of affiliated debtors that has aggregate noncontingent liquidated secured and unsecured debts in an amount greater than $3,000,000 (excluding debts owed to 1 or more affiliates or insiders);”.}

(b) Conforming Amendment.—Section 1102(a)(51C) of title 11, United States Code, is amended by inserting “debtors after “small business”.

SEC. 433. STANDARD FORM DISCLOSURE STATEMENT AND PLAN.

Within a reasonable period of time after the date of enactment of this Act, the Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall propose for adoption standard form disclosure statements and plans of reorganization for small business debtors (as defined in section 101(51C) of title 11, United States Code, as amended by this Act), designed to achieve a practical balance between—

(1) the reasonable needs of the courts, the United States trustee, creditors, and other parties in interest for reasonably complete information; and

(b) economy and simplicity for debtors.

SEC. 434. UNIFORM NATIONAL REPORTING REQUIREMENTS.

(a) Reporting Required.—

(1) In General.—Chapter 3 of title 11, United States Code, is amended by inserting after section 307 the following:

“(s) 308 Debt reporting requirements

“(a) For purposes of this section, the term ‘profitability’ means, with respect to a debtor, the amount of money that the debtor has earned or lost during current and recent fiscal periods.

(b) A small business debtor shall file periodic reports containing information including—

(1) the debtor’s profitability;

(2) reasonable approximations of the debtor’s cash receipts and cash disbursements over a reasonable period;

(3) comparisons of actual cash receipts and disbursements with projections in prior reports;

(4) whether the debtor is—

(vi) in compliance in all materials respects with postpetition requirements imposed by the Administrative Committee of the Federal Rules of Bankruptcy Procedure; and

(vii) timely filing tax returns and other required government filings and paying taxes and other administrative claims; and

(6) if the debtor is not in compliance with the requirements referred to in subparagraph
(A)(i) or filing tax returns and other required government filings and making the payments referred to in subparagraph (A)(ii), what the failures are and how, at what cost, and why the debtor intends to remedy such failures; and

"(C) such other matters as are in the best interests of the debtor and creditors, and in the public interest, in fair and efficient procedures under chapter 11 of this title."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 307 the following:

"308. Debtor reporting requirements."

SEC. 435. UNIFORM RULES AND FORMS FOR SMALL BUSINESS CASES.

(a) PROPOSAL OF RULES AND FORMS.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall propose for adoption amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms that may be used by small business debtors to file periodic financial and other reports containing information, including information relating to—

(1) the debtor's profitability;
(2) the debtor's cash receipts and disbursements; and
(3) whether the debtor is timely filing tax returns and paying taxes and other administrative claims when due.

(b) PURPOSE.—The rules and forms proposed under subsection (a) shall be designed to achieve the following:

(1) the reasonable needs of the bankruptcy court, the United States trustee, creditors, and other parties in interest for reasonably complete information;
(2) the small business debtor's interest that required reports be easy and inexpensive to complete and to receive; and
(3) the interest of all parties that the required reports help the small business debtor to understand the small business debtor's financial condition and plan the small business debtor's future.

SEC. 436. DUTIES IN SMALL BUSINESS CASES.

(a) DUTIES IN CHAPTER 11 CASES.—Subchapter I of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

"§ 1116. Duties of trustee or debtor in possession in small business cases

"In a small business case, a trustee or the debtor in possession, in addition to the duties provided in this title and as otherwise required by law, shall—

"(1) append to the voluntary petition or, in an involuntary case, not later than 7 days after the date of the order for relief—

"(A) its most recent balance sheet, statement of operations, cash-flow statement, Federal income tax return, or

"(B) a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed;

"(2) attend, through its senior management personnel and counsel, meetings scheduled by or on behalf of the United States trustee, including initial debtor interviews, scheduling conferences, and meetings of creditors convened under section 341 unless the court, for additional reasons not after notice and hearing, upon a finding of extraordinary and compelling circumstances;

"(3) timely file all schedules and statements of financial affairs, unless the court, after notice and a hearing, grants an extension, which shall not extend such time period by more than 90 days after the date of the order for relief, absent extraordinary and compelling circumstances;

"(4) file all postpetition financial and other reports required by the Federal Rules of Bankruptcy Procedure or by local rule of the district court;

"(5) subject to section 303(c)(2), maintain an inventory customary and appropriate to the industry;

"(6)(A) timely file tax returns and other required government filings; and

"(B) subject to section 365(c)(2), timely pay all administrative expense tax claims, except those being contested by appropriate proceedings being diligently prosecuted; and

"(7) allow the United States trustee, or a designated representative of the United States trustee, to inspect the debtor's business premises, books, and records at reasonable times, after reasonable prior written notice, unless notice is waived by the debtor.

"(b) CLERICAL AMENDMENT.—The table of sections for chapter 11, United States Code, as amended by this Act, is amended by adding at the end of the matter relating to subchapter I the following:

"1116. Duties of trustee or debtor in possession in small business cases."

SEC. 437. PLAN FILING AND CONFIRMATION DEADLINES.

Section 1129 of title 11, United States Code, is amended by striking subsection (e) and inserting the following:

"(e) In a small business case—

"(1) only the debtor may file a plan until after 180 days after the date of the order for relief, unless that period is—

"(A) extended as provided by this subsection, after notice and hearing; or

"(B) the court, for cause, orders otherwise;

"(2) the plan, and any necessary disclosure statement, shall be filed not later than 300 days after the date of the order for relief; and

"(3) the time periods specified in paragraphs (1) and (2) of title 11, shall be fixed in section 1129(e), within which the plan shall be confirmed, may be extended only if—

"(A) the debtor, after providing notice to parties in interest (including the United States trustee), demonstrates by a preponderance of the evidence that it is more likely than not that the court will confirm a plan within a reasonable period of time;

"(B) a new deadline is imposed at the time the extension is granted; and

"(C) the order extending time is signed before the existing deadline has expired.

"SEC. 438. PLAN CONFIRMATION DEADLINES.

Section 1129 of title 11, United States Code, is amended by adding at the end the following:

"(e) In a small business case, the plan shall be confirmed not later than 45 days after the date that a plan is filed with the court as provided in section 1129(e).

"(2) The 45-day period referred to in paragraph (1) may be extended only if—

"(A) the debtor, after notice and hearing, demonstrates that it is more likely than not that the court will confirm a plan within a reasonable period of time;

"(B) a new deadline is imposed at the time at which the extension is granted; and

"(C) the order extending time is signed before the existing deadline has expired.

"SEC. 439. DUTIES OF THE UNITED STATES TRUSTEE.

Section 366(a) of title 28, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking ""may""; and

(2) by striking paragraph (1) and inserting the following:

"(1) shall hold such status conferences as are necessary to further the expedient and economical resolution of the case; and"

SEC. 440. SCHEDULING CONFERENCES.

Section 362(d) of title 11, United States Code, as amended by this Act is amended—

(1) in subsection (k), as redesignated by this Act—

"(A) by striking ""An"" and inserting ""(1) Except as provided in paragraph (2), an""; and

"(B) by adding at the end the following:

"(2) If such violation is based on an action taken by an entity in the good faith belief that subsection (h) applies to the debtor, the recovery under paragraph (1) of this subsection against such entity shall be limited to actual damages.""; and

(2) by adding at the end of paragraph (2) the following:

"(3) In a small business case, the provisions of subsection (a) do not apply in a case in which the debtor—

"(A) is a debtor in a small business case pending at the time the petition is filed;

"(B) was a debtor in a small business case that was dismissed for any reason by an order that became final in the 2-year period ending on the date of the order for relief entered with respect to the petition;

"(C) was a debtor in a small business case in which a plan was confirmed in the 2-year period ending on the date of the order for relief entered with respect to the petition; or

"(D) is an entity that has succeeded to substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C)."
(a) EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION AND APPOINTMENT OF TRUSTEE.—Section 1104(a) of title 11, United States Code, is amended by inserting after paragraph (2) the following:

"(3) in paragraph (2), by striking the period at the end and inserting "or a voluntary''; and

(b) ADDITIONAL GROUNDS FOR APPOINTMENT OF TRUSTEE.—Section 1104(a) of title 11, United States Code, is amended—

"(1) in paragraph (1), by striking "or" at the end;

"(2) in paragraph (2), by striking the period at the end and inserting "or"; and

"(3) by adding at the end the following:

"(A) there is a reasonable likelihood that a continuation of the case under chapter 11 of such title will not be in the best interest of creditors or the estate, if the movant establishes cause.

"(B) in paragraph (1) shall not be granted if the debtor or another party in interest objects and establishes that—

"(i) the court from meeting the time limits established by this paragraph;

"(ii) for which there exists a reasonable justification for the act or omission; and

"(iii) that will be cured within a reasonable period of time fixed by the court.

"(C) the internal and external factors that cause small businesses, especially sole proprietors, to become debtors in cases under title 11, United States Code, and that cause certain small businesses to successfully complete cases under chapter 11 of such title; and

"(D) how Federal laws relating to bankruptcy may be made more effective and efficient in assisting small businesses to remain viable; and

"(E) submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report summarizing that study.

"(c) The compilation required under subsection (b) shall contain an analysis of the information.

"(2) the compilation required under subsection (b) shall be presented in the aggregate and for each district; and

"(3) include information concerning equal to or better than the contract rate of interest on the value of the creditor's interest in the real estate; or"

SEC. 445. PRIORITY FOR ADMINISTRATION OF TITLE 11, UNITED STATES CODE, WITH RESPECT TO SMALL BUSINESSES.

Not later than 2 years after the date of enactment of this Act, the Administrator of the Small Business Administration, in consultation with the Attorney General, the Director of the Administrative Office of the United States Courts, and the Director of the Administrative Office of the United States Courts, shall—

"(1) conduct a study to determine—

"(A) the internal and external factors that cause small businesses, especially sole proprietors, to become debtors in cases under title 11, United States Code, and that cause certain small businesses to successfully complete cases under chapter 11 of such title; and

"(B) how Federal laws relating to bankruptcy may be made more effective and efficient in assisting small businesses to remain viable; and

"(2) submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report summarizing that study.

"(a) IN GENERAL.—Chapter 6 of title 28, United States Code, is amended—

"(1) by inserting ''559, 560, 561, 562'' after ''558;'' and

"(2) by inserting ''559, 560, 561, 562'' after ''557.''

"(c) The compilation required under subsection (b) shall—

"(1) be itemized, by chapter, with respect to title 11;

"(2) be presented in the aggregate and for each district; and

"(3) include information concerning equal to or better than the contract rate of interest on the value of the creditor's interest in the real estate; or"

"(a) T ECHNICAL AMENDMENT RELATING TO PETITION.—Section 921(d) of title 11, United States Code, is amended by inserting ''notwithstanding section 301(b)'' before the period at the end.

"(b) CONFORMING AMENDMENT.—Section 301 of title 11, United States Code, is amended—

"(1) by inserting ''(a)'' before ''A voluntary'';

"(2) by striking the last sentence and inserting the following:

"(B) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.''

"(a) IN GENERAL.—Chapter 6 of title 28, United States Code, is amended by adding at the end the following:

"(b) The clerk of each district shall collect statistics regarding individual debtors with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be on a standardized form prescribed by the Director of the Administrative Office of the United States Courts (referred to in this section as the ‘Director’).

"(c) The compilation required under subsection (b) shall—

"(1) be itemized, by chapter, with respect to title 11;

"(2) be presented in the aggregate and for each district; and

"(3) include information concerning equal to or better than the contract rate of interest on the value of the creditor's interest in the real estate; or"

"(a) T ECHNICAL AMENDMENT RELATING TO PETITION.—Section 301 of title 11, United States Code, is amended by inserting ''notwithstanding section 301(b)'' before the period at the end.

"(b) CONFORMING AMENDMENT.—Section 301 of title 11, United States Code, is amended—

"(1) by inserting ''(a)'' before ''A voluntary'';

"(2) by striking the last sentence and inserting the following:

"(B) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.''

"(a) IN GENERAL.—Chapter 6 of title 28, United States Code, is amended by adding at the end the following:

"(b) The clerk of each district shall collect statistics regarding individual debtors with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be on a standardized form prescribed by the Director of the Administrative Office of the United States Courts (referred to in this section as the ‘Director’).

"(c) The compilation required under subsection (b) shall—

"(1) be itemized, by chapter, with respect to title 11;

"(2) be presented in the aggregate and for each district; and

"(3) include information concerning equal to or better than the contract rate of interest on the value of the creditor's interest in the real estate; or"
“(c) the aggregate amount of debt discharged in the reporting period, determined as the difference between the total amount of debt and obligations of a debtor reported on the schedules and the amount of such debt reported in categories which are predominantly nondischargeable;

“(d) the average period of time between the filing of the petition and the closing of the case;

“(e) for the reporting period—

“(i) the number of cases in which a reaffirmation was filed; and

“(ii) the total number of reaffirmations filed;

“(f) of those cases in which a reaffirmation was filed, the number of cases in which the debtor was not represented by an attorney; and

“(g) of those cases in which a reaffirmation was filed, the number of cases in which the reaffirmation was approved by the court; and

“(h) with respect to cases filed under chapter 13 of title 11, for the reporting period—

“(i)(I) the number of cases in which a final order was entered determining the value of property securing a claim in an amount less than the amount of the claim; and

“(II) the number of final orders determining the value of property securing a claim issued;

“(ii) the number of cases dismissed, the number of cases dismissed for failure to make payments under the plan, the number of cases refiled after dismissal, and the number of cases in which the plan was completed separately itemized with respect to the number of modifications made before completion of the plan, if any; and

“(iii) the number of cases in which the debtor filed another case during the 6-year period preceding the filing;

“(f) in cases in which creditors were fined for misconduct and any amount of punitive damages awarded by the court for creditor misconduct; and

“(h) the number of cases in which sanctions under rule 9011 of the Federal Rules of Bankruptcy Procedure were imposed against debtor’s counsel or damages awarded under such Rule.”;

(b) CLERICAL AMENDMENT.—The table of sections for chapter 6 of title 28, United States Code, is amended by adding at the end the following:

“§ 589b. Bankruptcy data

“(a) RULES.—The Attorney General shall, within a reasonable time after the effective date of this section, issue rules requiring uniform forms for (and from time to time thereafter to appropriately modify and approve)

“(1) final reports by trustees in cases under chapters 7, 11, and 13 of title 11; and

“(2) periodic reports by debtors in possession or trustees, as the case may be, in cases under chapter 11 of title 11.

“(b) REPORTS.—Each report referred to in subsection (a) shall be designed (and the requirements as to place and manner of filing shall be established) so as to facilitate compilation of data and maximum possible access of the public, both by physical inspection at the various filing locations, and by electronic access through the Internet or other appropriate media.

“(c) EFFECTIVE DATE.—The information required to be filed in the reports referred to in subsection (a) shall be that which is in the best interests of debtors and creditors, and in the public interest in reasonable and adequate information to evaluate the efficiency and practicality of the bankruptcy system. In issuing rules under this section, the Attorney General shall strike the best achievable statistical balance between—

“(1) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system;

“(2) economic feasibility and lack of undue burden on persons with a duty to file reports; and

“(3) appropriate privacy concerns and safeguards.

“(d) FINAL REPORTS.—Final reports proposed for adoption by trustees under chapters 7 and 13, and by the Attorney General in the discretion of the Attorney General, shall propose, in writing, respect to a case under such title—

“(1) information about the length of time the case was pending;

“(2) the number of cases com- mitted to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General, shall propose, in writing, with respect to a case under such title—

“(1) information about the length of time the case was pending;

“(2) the number of cases

“(a) ESTABLISHMENT OF PROCEEDINGS.—The Attorney General (in judicial districts served by United States trustees) and the Judicial Conference of the United States (in judicial districts served by bankruptcy judges) shall establish procedures to determine the accuracy, veracity, and completeness of petitions, schedules, and other information that is required to be filed under sections 521 and 1322 of title 11. and, if applicable, section 111 of title 11. in individual cases filed under chapter 7 or 13 of such title.

“(b) EFFECTS.—Such rules shall be in accordance with generally accepted auditing standards and performed by independent certified public accountants, provided that the Attorney General and the Judicial Conference, as appropriate, may develop alternative auditing standards not later than 2 years after the date of enactment of this Act.

“(2) PROCEDURES.—Those procedures required by paragraph (1) shall—

“(A) establish a method of selecting appropriate qualified persons to contract to perform those audits;

“(B) establish a method of randomly selecting cases to be audited, except that not more than 1 out of every 250 cases in each Federal judicial district shall be selected for audit;

“(C) require audits for schedules of income and expenses which require greater than average variances from the statistical norm of the district in which the schedules were filed if those variances occur by reason of higher income or higher expenses than the statistical norm of the district in which the schedules were filed; and

“(D) establish procedures for providing, not less frequently than annually, public information concerning the aggregate results of such audits including the percentage of cases in each district and the material misstatement of income or expenses is reported.

“(b) AMENDMENTS.—Section 506 of title 28, United States Code, is amended—

“(1) in subsection (a), by striking paragraph (6) and inserting the following:

“(6) make such reports as the Attorney General directs, including the results of audits performed under section 603(a) of the Bankruptcy Reform Act of 2001; and”;

“(2) by adding at the end the following:

“(c)(1) The United States trustee for each district shall, at the authorization of the United States trustee, may develop alternative procedures to perform audits in cases designated by the United States trustee, in accordance with the procedures established under section 603(a) of the Bankruptcy Reform Act of 2001.

“(2)(A) The report of each audit referred to in paragraph (1) shall be filed with the court and transmitted to the United States trustees. Each report shall clearly and conspicuously specify any material misstatement of income or expenditures or of assets identified by the person performing the audit. In any case in which a material misstatement of income or expenditures or of assets has been reported, the clerk of the bankruptcy court shall give notice of the misstatement to the creditors in the case.

“(B) If a material misstatement of income or expenditures or of assets is reported, the United States trustee shall—

“(i) report the material misstatement, if appropriate, to the United States Attorney pursuant to section 303 of title 18 and

“(ii) if advisable, take appropriate action, including but not limited to commencing an adversary proceeding to revoke the debtor’s discharge pursuant to section 727(d) of title 11.”;

“(c) AMENDMENTS TO SECTION 521 OF TITLE 11, U.S.C.—Section 521(a) of title 11, United
States Code, as so designated by this Act, is amended in each of paragraphs (3) and (4) by inserting “or an auditor appointed under section 586(f) of title 28” after “serving in the case”.

(d) AMENDMENTS TO SECTION 727 OF TITLE 11, U.S.C.—Section 727(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking “or” at the end; and
(2) in paragraph (3), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following: “(4) the debtor has failed to explain satisfactorily—
(A) a material misstatement in an audit report referred to in section 586(f) of title 28; or
(B) a failure to make available for inspection all necessary accounts, papers, documents, financial records, files, and all other things, papers, or property belonging to the debtor that are requested for an audit referred to in section 586(f) of title 28.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 604. SENSE OF CONGRESS REGARDING AVAILABILITY OF BANKRUPTCY DATA.

It is the sense of Congress that—

(1) the national policy of the United States should be that all data held by bankruptcy clerks in electronic form, to the extent such data reflects only public records (as defined in section 107 of title 11, United States Code), should be released in a usable electronic form in bulk to the public, subject to such appropriate privacy concerns and safeguards as Congress, through the Judicial Conference of the United States may determine; and

(2) there should be established a bankruptcy data system in which—
(A) a single set of data definitions and forms are used to collect data nationwide; and
(B) data for any particular bankruptcy case are aggregated in the same electronic record.

TITLE VII—BANKRUPTCY TAX PROVISIONS

SEC. 701. TREATMENT OF CERTAIN LIENS.

(a) TREATMENT OF CERTAIN LIENS.—Section 729 of title 11, United States Code, is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by inserting “other than to the extent that there is a properly perfected unavoidable tax lien arising in connection with an ad valorem tax on real or personal property of the estate” after “under this title”;
(2) in subsection (b)(2), by inserting “except that such expenses, other than claims for wages, salaries, or commissions which arise after the filing of a petition, shall be limited to expenses incurred under chapter 7 of this title and shall not include expenses incurred after March 31 of the year in which the plan is confirmed” after section 506(a)(1)’’; and
(3) by adding at the end the following: “(e) Before subordinating a tax lien on real or personal property of the estate, the trustee shall—
(1) exhaust the unencumbered assets of the estate; and
(2) in a manner consistent with section 506(c), recover from property securing an allowed secured claim the reasonable, necessary costs and expenses of preserving or disposing of that property.

(f) Notwithstanding the exclusion of ad valorem tax liens under this section and subject to the requirements of subsection (e), the proceeds of that property may be paid from property of the estate which secures a tax lien, or the proceeds of such property:

(1) Claims for wages, salaries, and commissions that are entitled to priority under section 507(a)(4).
(2) Claims for contributions to an employee benefit plan that are entitled to priority under section 507(a)(5).

(b) DETERMINATION OF TAX LIABILITY.—Section 506(a)(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking “or” at the end;
(2) in subparagraph (B), by striking the period at the end and inserting “; or”;
(3) by adding at the end the following: “(C) the amount or legality of any amount arising in connection with a delivered tax on real or personal property of the estate, if the applicable period for contesting or redeeming that amount under any law (other than a bankruptcy law) has expired.”.

SEC. 702. TREATMENT OF FUEL TAX CLAIMS.

Section 501 of title 11, United States Code, is amended by adding at the end the following:

“(i) a claim arising from the liability of a debtor for fuel use tax assessed consistent with the requirements of section 31705 of title 49 may be paid from property securing a tax lien if the following conditions are satisfied:—
(1) the plan by which the estate is to be administered under chapter 11 of this title is confirmed within 18 months after the date of enactment of this Act.
(2) the estate which secures a tax lien, or the estate; and
(3) the following may be paid from property of the estate which secures a tax lien, or the estate; and
(4) the estate.

(a) TREATMENT OF CERTAIN LIENS.—Section 507(a)(1) of title 11, United States Code, is amended by striking “under this title”;

(b) DETERMINATION OF TAX LIABILITY.—Section 507(a)(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking “or” at the end;
(2) in subparagraph (B), by striking the period at the end and inserting “; or”;
(3) by adding at the end the following: “(C) the amount or legality of any amount arising in connection with a delivered tax on real or personal property of the estate, if the applicable period for contesting or redeeming that amount under any law (other than a bankruptcy law) has expired.”.

SEC. 703. NOTICE OF REQUEST FOR A DETERMINATION OF TAXES.

Section 505(b) of title 11, United States Code, is amended—

(1) in the first sentence, by inserting “at the address and in the manner designated in paragraph (1)” after “determination of such tax”; and

(2) by striking “(1) upon payment” and inserting “(A) upon payment”; and

(3) by striking “(2) such governmental unit” and inserting “(1) such governmental unit”; and

(4) by striking “(B) such governmental unit” and inserting “(2) such governmental unit”.

SEC. 704. RATE OF INTEREST ON TAX CLAIMS.

(a) IN GENERAL.—Subchapter I of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

“(a) If any provision of this title requires the payment of interest on a tax claim or on an administrative expense tax, or the payment of interest on an award of damages for a delay in receiving the present value of the allowed amount of a tax claim, the rate of interest shall be the rate determined under applicable nonbankruptcy law.

(b) In the case of taxes paid under a confirmed plan under this title, the rate of interest shall be determined as of the calendar month in which the plan is confirmed.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 510 the following:

“511. Rate of interest on tax claims.”.

SEC. 705. PRIORITY OF TAX CLAIMS.

Section 507(a)(8) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by inserting “for a taxable year ending on or before the date of filing of the petition” after “gross receipts”;

(B) in clause (i), by striking “for a taxable year ending on or before the date of filing of the petition” and inserting the following:

“(ii) assessed within 240 days before the date of the filing of the petition, exclusive of—
(1) any time during which an offer in compromise with respect to that tax was pending or in effect during that 240-day period, plus 30 days; and
(2) any time during which a stay of proceedings against collections was in effect in a priority case under this title during that 240-day period, plus 90 days.”;

and

(2) by adding at the end the following: “An otherwise applicable time period specified in this paragraph shall be suspended for any period during which a governmental unit is prohibited under applicable nonbankruptcy law from collecting a tax as a result of a request by the debtor for a hearing and an appeal of any collection action taken or proposed against the debtor; plus 90 days; and

(3) by adding at the end the following: “An otherwise applicable time period specified in this paragraph shall be suspended for any period during which a governmental unit is prohibited under applicable nonbankruptcy law from collecting a tax as a result of a request by the debtor for a hearing and an appeal of any collection action taken or proposed against the debtor; plus 90 days; and

SEC. 706. NO DISCHARGE OF FRAUDULENT TAXES INCURRED.

Section 507(a)(8)(B) of title 11, United States Code, is amended by striking “assessed” and inserting “incurred”.

SEC. 707. NO DISCHARGE OF FRAUDULENT TAXES IN CHAPTER 13.

Section 1328(a)(2) of title 11, United States Code, as amended by section 314 of this Act, is amended by striking “paragraph” and inserting “paragraph (C)”.

SEC. 708. NO DISCHARGE OF FRAUDULENT TAXES IN CHAPTER 11.

Section 1141(d) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

“(6) Notwithstanding paragraph (1), the confirmation of a plan does not discharge a debtor that is a corporation from any debt described in subparagraph (A) or (B) of section 523(a)(2) that is owed to a person as the result of an action filed under subchapter III of chapter 7 of title 11, United States Code, or any similar State statute, or for a tax or customs duty with respect to which the debtor—

(A) made a fraudulent return; or

(B) willfully attempted in any manner to evade or defeat that tax or duty.”

SEC. 709. STAY OF TAX PROCEEDINGS LIMITED TO PREPETITION TAXES.

Section 362(a)(8) of title 11, United States Code, is amended by striking “the debtor” and inserting “a corporate debtor’s tax liability for a taxable period ending before the order for relief under this title”.

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CONGRESSIONAL RECORD — SENATE
SEC. 710. PERIODIC PAYMENT OF TAXES IN CHAPTER 11 CASES.

Section 1129(a)(9) of title 11, United States Code, is amended—

(1) in subparagraph (B), by striking "and" at the end;

(2) in subparagraph (C), by striking "deferred" and all the words through the end of the subparagraph, and inserting "regular installment payments in cash;"

"(i) of a total value, as of the effective date of the plan, equal to the allowed amount of such claim;"

"(ii) over a period ending not later than 5 years after the date of the entry of the order for relief under section 301, 302, or 303; and"

"(iii) in a manner not less favorable than the most favored nonpriority unsecured claim provided for in the plan (other than cash payments made to a class of creditors under section 1122(b)); and"

(3) by adding at the end the following:

"(D) with respect to a secured claim which would otherwise meet the description of an unsecured claim of a governmental unit under section 507(a)(8), but for the secured status of that claim, the holder of that claim will receive on account of that claim, cash payments, in the same manner and over the same period, as prescribed in subparagraph (C)."

SEC. 711. AVOIDANCE OF STATUTORY TAX LIENS.

Section 546(2) of title 11, United States Code, is amended by inserting before the semicolon at the end the following: -

"; except in any case in which a purchaser is a purchaser described in section 6020 of the Internal Revenue Code of 1986, or in any other similar provision of State or local law.

SEC. 712. PAYMENT OF TAXES IN THE CONDUCT OF BUSINESS.

(a) PAYMENT OF TAXES REQUIRED.—Section 900 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "Any"; and

(2) by adding at the end the following:

"(b) A tax under subsection (a) shall be paid on or before the due date of the tax under applicable nonbankruptcy law, unless—

"(i) the tax is a property tax secured by a lien against property that is abandoned within a reasonable period of time after the lien attaches by the trustee of a bankruptcy estate; or section 525 of title 11; or

"(ii) payment of the tax is excused under a specific provision of title 11;"

"(c) In a case pending under chapter 7 of title 11, a tax which is a tax on property of the estate may be deferred until final distribution is made under section 726 of title 11, if—

"(1) the tax was not incurred by a trustee duly appointed under chapter 7 of title 11; or

"(2) before the due date of the tax, an order of the court makes a finding of probable insufficiency of funds of the estate to pay in full the administrative expenses allowed under section 503(b)(1) of title 11 that have the same priority in distribution under section 726(b) of title 11.

(b) PAYMENT OF AD VALOREM TAXES REQUIRED.—Section 502(b)(1) of title 11, United States Code, is amended by inserting "whether secured or unsecured, including property taxes for which liability is in rem, in personam, or both," before "except":

"(c) EXPENSES OF ADMINISTRATIVE EXPENSE TAXES ELIMINATED.—Section 503(b)(1) of title 11, United States Code, is amended—

(1) in subparagraph (B), by striking "and" at the end;

(2) in subparagraph (C), by adding "and" at the end; and

(3) by adding at the end the following:

"(D) notwithstanding the requirements of subsection (a), a governmental unit shall not be required to file a request for the payment of an expense described in subparagraph (B) or (C), as a condition of its being an allowed administrative expense;"

(b) PAYMENT OF TAXES AND FEES AS SECURED CLAIMS.—Section 506 of title 11, United States Code, is amended—

(1) in subsection (b), by inserting "or State statute" after "(A)"

(2) in subsection (c), by inserting ", including the payment of all ad valorem property taxes with respect to the property" before the period at the end of such subsection;

(3) by adding at the end the following:

"(D) a tax under subparagraph (a) shall be treated as a claim entitled to priority as if it were a claim secured by a lien against property of the estate to the extent of the value of such property as of the date of the order for relief;"

(c) INTEREST ON ADMITTED TAXES.—Section 506(b)(1) of title 11, United States Code, is amended by inserting "or its equivalent" after "a period of time not to exceed the period of time to file any unfiled returns, but such additional period of time shall not extend beyond—

"(i) the date that is 120 days after the date of the filing of the petition, the date that is 120 days after the date of that meeting; or

"(ii) for any return that is not past due as of the date of the filing of the petition, the later of—

"(i) the date that is 120 days after the date of the filing of the petition; and

"(ii) the date on which the return is due under the last automatic extension of time for filing that return to which the debtor is entitled, and for which request is timely made, in accordance with applicable nonbankruptcy law.

"(2) Upon notice and hearing, and order entered before the tolling of any applicable filing period determined under this subsection, the debtor may extend such filing period by a reasonable period of time attributable to circumstances beyond the control of the court, in order to allow the debtor an additional period of time to file a return as required under this subsection.

SEC. 713. TARDILY FILED PRIORITY TAX CLAIMS.

Section 726(a)(1) of title 11, United States Code, is amended by striking "before the date on which the bankruptcy court determines distribution under this section;" and inserting the following: "on or before the earlier of—

"(A) the date that is 10 days after the mailing to creditors of the summary of the trustee's final report; or

"(B) the date on which the trustee commences final distribution under this section;"

SEC. 714. INCOME TAX RETURNS PREPARED BY TAX AUTHORITIES.

Section 523(b) of title 11, United States Code, as amended by this Act, is amended—

(1) by inserting "(a)" before "Any"; and

(2) by adding at the end the following:

"(b) For purposes of this section, the term 'return' means a return that satisfies the requirements prescribed in paragraph (2).

"(c) For purposes of this section, the term 'return' includes a return prepared pursuant to section 6020 of the Internal Revenue Code of 1986, or a similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal.

"(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 13 of title 11, United States Code, is amended by inserting after the item relating to section 3015 the following:

"(1308. Filing of prepetition tax returns."

"(c) DISMISSAL OR CONVERSION ON FAILURE TO COMPLY.—Section 1307 of title 11, United States Code, is amended, by inserting after the item relating to section 3015 the following:

"(d) TIMELY FILED CLAIMS.—Section 502(b)(9) of title 11, United States Code, is amended by inserting before the period at the end the following:

"; and except that in a case under chapter 13, a claim of a governmental unit for a tax with respect to a return filed under section 1308 shall be timely if the claim is filed on or before the date that is 60 days after the date on which such return was filed as required.

SEC. 715. DISCHARGE OF THE ESTATE'S LIABILITY FOR TAXES.

Section 505(b)(2) of title 11, United States Code, as amended by this Act, is amended by inserting "the estate," after "misrepresentation;".

SEC. 716. REQUIREMENT TO FILE TAX RETURNS TO CONFIRM CHAPTER 13 PLANS.

(a) FILING OF PREPETITION TAX RETURNS REQUIRED FOR PLAN CONFIRMATION.—Section 1325(a) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

"(b) ADDITIONAL TIME PERMITTED FOR FILING TAX RETURNS.

(1) In general.—Subchapter I of chapter 13 of title 11, United States Code, is amended by adding at the end the following:

"(c) For purposes of this section, the term 'returns' includes a return prepared pursuant to section 6020 of the Internal Revenue Code of 1986, or a similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal.

"(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 13 of title 11, United States Code, is amended by inserting after the item relating to section 3015 the following:

"(c) DISMISSAL OR CONVERSION ON FAILURE TO COMPLY.—Section 1307 of title 11, United States Code, is amended, by inserting after the item relating to section 3015 the following:

"(d) TIMELY FILED CLAIMS.—Section 502(b)(9) of title 11, United States Code, is amended by inserting before the period at the end the following:

"(e) RULERS FOR OBLIGATIONS TO TAXING AUTHORITIES.

"(b) PAYMENT OF TAXES REQUIRED FOR PLAN CONFIRMATION.—Section 1325(a) of title 11, United States Code, as amended by this Act, is amended by inserting after the item relating to section 3015(f), in cases under chapter 13 of title 11,
United States Code, an objection to the con-
firmation of a plan filed by a governmental unit on or before the date that is 60 days after the date on which the debtor files all tax returns required under section 1325(a)(7) of title 11, United States Code, shall be treated for all purposes as if such ob-
jection had been timely filed before such con-
firmation.

(2) In addition to the provisions of Rule 3007, in a case under chapter 11 of title 11, United States Code, no objection to a tax with respect to which a return is required to be filed under section 1308 of title 11, United States Code, shall be filed until such return has been filed as required.

SEC. 718. SETOFF OF TAX REFUNDS.

Section 362(b) of title 11, United States Code, is amended by inserting after para-
graph (5), as added by this Act, the fol-
lowing:

"(26) under subsection (a), of the setoff under applicable nonbankruptcy law of an income tax refund by a governmental unit, with respect to a taxable period that ended before the order for relief against an income tax liability for a taxable period that also ended before the order for relief, except that in any case in which the setoff of an income tax refund is not permitted under applicable nonbankruptcy law because of a pending ac-
tion to determine the amount or legality of a tax liability, the governmental unit may hold the refund pending the resolution of the action, unless the court, upon motion of the trustee and after notice and hearing, grants the taxing authority adequate protection (within the meaning of section 361) for the secured claim of that authority in the setoff under section 507(a)(1).

SEC. 719. SPECIAL PROVISIONS RELATED TO THE TREATMENT OF STATE AND LOCAL TAXES.

(a) In General.—Section 346 of title 11, United States Code, is amended to read as follows:

"§ 346. Special provisions related to the treatment of State and local taxes.

(a) Whenever the Internal Revenue Code of 1986 provides that a separate taxable es-
tate or entity is created in a case concerning a debtor under this title, and the income, gain, loss, deductions, and credits of such es-
tate shall be taxed to or claimed by the estate, a separate taxable estate is also created for purposes of State and local law imposing a tax on or measured by income and such income, gain, loss, deductions, and credits shall be taxed to or claimed by the estate and may not be taxed to or claimed by the debtor. The preceding sentence shall not apply if the case is dismissed. The trustee shall make tax returns of income required under any such State or local law.

"(b) Whenever the Internal Revenue Code of 1986 provides that no separate taxable es-
tate shall be created in a case concerning a debtor and the income, gain, loss, deductions, and credits of an estate shall be taxed to or claimed by the debtor, such income, gain, loss, deductions, and credits shall be taxed to or claimed by the debtor under a State or local law imposing a tax on or measured by income and may not be taxed to or claimed by the estate. The trustee shall make such tax returns of in-
come of corporations and of partnerships as are required under any State or local law, but only to the extent that, under such State or local law, said returns only to the extent such returns are also required to be made under such Code. The estate shall be liable for any tax on or measured by income, gain, loss, deductions, and credits imposed or considered distributed, from such State or local law, or local tax law, and shall pay such withheld or collected under applicable State or local tax law, and shall pay such withheld or collected amount of income from the discharge of indebtedness in a case under title 11, United States Code, is amended by inserting after chapter 15, the following:

"§ 801. AMENDMENT TO ADD CHAPTER 15 TO TITLE 11, UNITED STATES CODE.

(a) In General.—Title 11, United States Code, is amended by adding after chapter 13 the following:

"CHAPTER 15—ANCILLARY AND OTHER CROSS-BORDER CASES.

The estate or entity is created in a case concerning a debtor under this title, and the income, gain, loss, deductions, and credits of such estate shall be taxed to or claimed by the estate, such income, gain, loss, deductions, and credits shall be taxed to or claimed by the debtor under a State or local law imposing a tax on or measured by income and may not be taxed to or claimed by the estate. The trustee shall make such tax returns of in-
come of corporations and of partnerships as are required under any State or local law, but only to the extent that, under such State or local law, said returns only to the extent such returns are also required to be made under such Code. The estate shall be liable for any tax on or measured by income, gain, loss, deductions, and credits imposed or considered distributed, from such State or local law, or local tax law, and shall pay such withheld or collected under applicable State or local tax law, and shall pay such withheld or collected amount of income from the discharge of indebtedness in a case under title 11, United States Code, is amended by inserting after chapter 15, the following:

"CHAPTER 15—ANCILLARY AND OTHER CROSS-BORDER CASES.

Sec. 1501. Purpose and scope of application.

Sec. 1502. Definitions.

Sec. 1503. International obligations of the United States.

Sec. 1504. Commencement of ancillary case.

Sec. 1505. Authorization to act in a foreign country.

Sec. 1506. Public policy exception.

1501. Purpose and scope of application.

1502. Definitions.


1504. Commencement of ancillary case.

1505. Authorization to act in a foreign country.

1506. Public policy exception.
SECTION 1501. Purpose and scope of application

(a) The purpose of this chapter is to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency with the objectives of—

(1) cooperation between—

(A) United States courts, United States trustees, trustees, examiners, creditors, and debtors in possession; and

(B) the courts and other competent authorities of foreign countries involved in cross-border insolvency cases;

(2) greater legal certainty for trade and investment;

(3) fair and efficient administration of cross-border insolvency proceedings that protects the interests of all creditors, and other interested parties, including the debtor;

(4) protection and maximization of the value of the property of a debtor, rights to tangible property located within the territory of the United States and intangible property deemed under applicable bankruptcy law to be located in the United States, or any property subject to attachment or garnishment that may properly be seized or garnished by an action in a Federal or State court in the United States;

(5) facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

(b) A case under this chapter is commenced by the filing of a petition for recognition of a foreign proceeding under section 1515.

SECTION 1502. Definitions

For the purposes of this chapter, the term—

(1) ‘debtor’ means an entity that is the subject of a foreign proceeding;

(2) ‘establishment’ means any place of operations where the debtor carries out a non-transitory economic activity;

(3) ‘foreign court’ means a judicial or administrative authority in a country other than the United States creating an entity authorized to act under this chapter; and

(4) ‘foreign nonmain proceeding’ means a foreign proceeding or foreign nonmain proceeding in a country where the debtor has an establishment;

(5) ‘foreign main proceeding’ means a foreign proceeding taking place in the country where the debtor has the center of its main interests;

(6) ‘foreign representative’ means a trustee, a debtor in possession, or a representative of claim holders in the United States;

(7) ‘recognition’ means the entry of any order of a court in the United States authorizing a foreign representative to act in the United States or permitting under any applicable State insolvency law or regulation the benefit of similar statutes adopted by foreign jurisdictions.

SECTION 1503. International obligations of the United States

(a) The United States undertakes to recognize foreign insolvency proceedings and to cooperate with foreign representatives as required to fulfill the policy of this chapter—

(1) within the territorial jurisdiction of the United States, when used with reference to property of a debtor, refers to tangible property located within the territory of the United States and intangible property deemed under applicable bankruptcy law to be located in the United States, or any property subject to attachment or garnishment that may properly be seized or garnished by an action in a Federal or State court in the United States.

(b) A case under this chapter is commenced by the filing of a petition for recognition of a foreign proceeding under section 1515.

SECTION 1504. Commencement of ancillary case

A case under this chapter is commenced by the filing of a petition for recognition of a foreign proceeding under section 1515.

SECTION 1505. Authorization to act in a foreign country

(a) A trustee or other entity (including an examiner) may be authorized by the court to act in a foreign country on behalf of an estate created under section 541. An entity authorized to act under this section may act in any way permitted by the applicable foreign law.

(b) Nothing in this chapter prevents the court from refusing to take an action governed by this chapter if the action would be manifestly contrary to the public policy of the United States.

SECTION 1506. Public policy exception

(a) Subject to the specific limitations stated elsewhere in this chapter the court, if recognition is granted, may provide additional assistance to a foreign representative under this title or under other laws of the United States.

(b) In determining whether to provide additional assistance under this title or under other laws of the United States, the court shall consider whether such additional assistance, consistent with the principles of comity, will reasonably assure—

(1) just treatment of all holders of claims against or interests in the debtor’s property; and

(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding.

(c) In interpreting this chapter, the court shall consider its international origin, and the need to promote an application of this chapter that is consistent with the application of similar statutes adopted by foreign jurisdictions.

SECTION 1507. Additional assistance

(a) In determining whether to provide additional assistance under this title or under other laws of the United States, the court shall consider whether such additional assistance, consistent with the principles of comity, will reasonably assure—

(1) just treatment of all holders of claims against or interests in the debtor’s property; and

(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding.

(b) Nothing in this chapter prevents the court from refusing to take an action governed by this chapter if the action would be manifestly contrary to the public policy of the United States.

(c) Whether or not the court grants recognition under sections 1509 and 1510, a foreign representative is subject to applicable nonbankruptcy law.
(f) Notwithstanding any other provision of this section, the failure of a foreign representative to commence a case or to obtain recognition under this chapter does not affect any right the foreign representative may have to sue in a court in the United States to collect or recover a claim which is the property of the debtor.

**§ 1510. Limited jurisdiction**

The sole fact that a foreign representative files a petition under section 1515 does not subject the foreign representative to the jurisdiction of a court in the United States for any other purpose.

**§ 1511. Commencement of case under section 301 or 303**

(a) Upon recognition, a foreign representative may:

(1) an involuntary case under section 303; or

(2) a voluntary case under section 301 or 303, if the foreign proceeding is a foreign main proceeding.

(b) The petition commencing a case under subsection (a) must be accompanied by a certified copy of an order granting recognition.

(c) Any rule of procedure or order of the court as to the notice or the filing of a claim or the mailing of such notice to creditors with foreign addresses as is reasonable under the circumstances.

**SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF**

**§ 1515. Application for recognition**

(a) A foreign representative applies to the court for recognition of the foreign proceeding in which the foreign representative has been appointed by filing a petition for recognition.

(b) A petition for recognition shall be accompanied by:

(1) a certified copy of the decision commencing the foreign proceeding and appointing the foreign representative;

(2) a certificate from the foreign court affirming the existence of the foreign proceeding and of the appointment of the foreign representative.

(c) A petition for recognition shall also be accompanied by a statement identifying all foreign proceedings with respect to the debtor that are known to the foreign representative.

(d) The documents referred to in paragraphs (1) and (2) of subsection (b) shall be translated into English. The court may require a translation into English of additional documents.

**§ 1516. Presumptions concerning recognition**

(a) If the decision or certificate referred to in section 1515(b) indicates that the foreign proceeding is a foreign proceeding (as defined in section 101) and that the person or body is a foreign representative (as defined in section 101), the court is entitled to so presume.

(b) The court is entitled to presume that documents submitted in support of the petition for recognition are authentic, whether or not they have been legalized.

(c) In the absence of evidence to the contrary, the court may accept as true evidence of a debt, the existence of the debtor, and the fact that the debtor is domiciled in the United States.

**§ 1517. Ordering recognition**

(a) Subject to section 1006, after notice and a hearing, an order recognizing a foreign proceeding shall be entered if—

(1) the foreign proceeding for which recognition is sought is a foreign main proceeding or foreign nonmain proceeding within the meaning of section 1502;

(2) the foreign representative applying for recognition is a person or body as defined in section 101; and

(3) the petition meets the requirements of section 1515.

(b) The foreign proceeding shall be recognized—

(1) as a foreign main proceeding if it is taking place in the country where the debtor has the center of its main interests; or

(2) as a foreign nonmain proceeding if the debtor has an establishment within the meaning of section 1502 in the foreign country where the proceeding is pending.

(c) A petition for recognition of a foreign proceeding shall be decided upon at the earliest possible date and an order recognizing a foreign proceeding constitutes recognition under this chapter.

**§ 1519. Relief that may be granted upon filing petition for recognition**

(a) From the time of filing a petition for recognition until the court rules on the petition, the court may:

(1) grant relief to the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of creditors;

(2) stay execution against the debtor's assets;

(3) order restraining the administration or realization of all or part of the debtor's assets located in the United States to the foreign representative or another person authorized by the court, including an examiner, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to deterioration or otherwise in jeopardy; and

(4) any other relief provided by sections 362(a), (b), or (c) of title 11.

(b) Unless extended under section 1521(a)(6), the relief granted under this section terminates when the petition for recognition is granted.

(c) It is a ground for denial of relief under this section that such relief would interfere with the administration of the foreign main proceeding.

(d) The court may not enjoin a police or regulatory act of a government, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to deterioration or otherwise in jeopardy; and

(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.

(f) The court may not enjoin a police or regulatory act of a government, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to deterioration or otherwise in jeopardy; and

(g) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.

**§ 1520. Effects of recognition of a foreign main proceeding**

(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—

(1) sections 361 and 362 apply with respect to the debtor and that property of the debtor that is within the territorial jurisdiction of the United States;

(2) sections 363, 549, and 552 of this title apply to a transfer of an interest of the debtor in an estate; and

(3) unless the court orders otherwise, the foreign representative may operate the debtor's business and may exercise the rights and powers of a trustee under and to the extent provided by sections 363 and 552; and

(4) The provisions of this subchapter do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist, but in considering such action the court shall give due weight to possible prejudice to parties that have relied upon the order granting recognition under this chapter may be closed in the manner prescribed under section 350.

**§ 1518. Subsequent information**

For the time of filing the petition for recognition of the foreign proceeding, the foreign representative shall file with the court promptly a notice of change of status concerning—

(1) any substantial change in the status of the foreign proceeding or the status of the foreign representative's appointment; and

(2) any other foreign proceeding regarding the debtor that becomes known to the foreign representative.

**§ 1519. Relief that may be granted upon filing petition for recognition**

(a) From the time of filing a petition for recognition until the court rules on the petition, the court may:

(1) grant relief to the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of creditors;

(2) stay execution against the debtor's assets;

(3) order restraining the administration or realization of all or part of the debtor's assets located in the United States to the foreign representative or another person authorized by the court, including an examiner, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to deterioration or otherwise in jeopardy; and

(4) any other relief provided by sections 362(a), (b), or (c) of title 11.

(b) Unless extended under section 1521(a)(6), the relief granted under this section terminates when the petition for recognition is granted.

(c) It is a ground for denial of relief under this section that such relief would interfere with the administration of the foreign main proceeding.

(d) The court may not enjoin a police or regulatory act of a government, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to deterioration or otherwise in jeopardy; and

(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.

(f) The court may not enjoin a police or regulatory act of a government, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to deterioration or otherwise in jeopardy; and

(g) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.

(h) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(l) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

**§ 1520. Effects of recognition of a foreign main proceeding**

(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—

(1) sections 361 and 362 apply with respect to the debtor and that property of the debtor that is within the territorial jurisdiction of the United States;

(2) sections 363, 549, and 552 of this title apply to a transfer of an interest of the debtor in an estate; and

(3) unless the court orders otherwise, the foreign representative may operate the debtor's business and may exercise the rights and powers of a trustee under and to the extent provided by sections 363 and 552; and
"(4) section 552 applies to property of the debtor that is within the territorial jurisdiction of the United States.

"(b) Subsection (a) does not affect the right to commence an individual action or proceeding in a foreign country to the extent necessary to preserve a claim against the debtor.

"(c) Subsection (a) does not affect the right of a representative or an entity to file a petition commencing a case under this title or the right of any party to file claims or take other proper actions in such a case.

"§ 1521. Relief that may be granted upon recognition

"(a) Upon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—

"(1) staying the commencement or continuation of an individual action or proceeding concerning the debtor's assets, rights, obligations or liabilities to the extent they have not been stayed under section 1520(a);

"(2) staying execution against the debtor's assets to the extent it has not been stayed under section 1520(a);

"(3) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent this right has not been suspended under section 1520(a);

"(4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;

"(5) entrusting the administration or realization of all or part of the debtor's assets within the territorial jurisdiction of the United States to the foreign representative or another person, including an examiner, authorized by the court; and

"(6) extending relief granted under section 1519(a); and

"(7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a).

"(b) Upon recognition of a foreign proceeding, whether main or nonmain, the court may, at the request of the foreign representative, grant the distribution of all or part of the debtor's assets located in the United States to the foreign representative or another person, including an examiner, authorized by the court, provided that the court is satisfied that the interests of creditors in the United States are sufficiently protected.

"(c) In granting relief under this section to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding and concerns information required in that proceeding.

"(d) The court may not enjoin a police or regulatory act of a governmental unit, in—

"(1) a case referred to in section 1525(a); and

"(2) a case referred to in section 1529(a).

"§ 1522. Protection of creditors and other interested persons

"(a) The court may grant relief under section 1519 or 1521, or may modify or terminate relief under subsection (c), only if the interests of creditors and other interested entities, including the debtor, are sufficiently protected.

"(b) The court may subject relief granted under section 1519 or 1521, or the operation of the debtor's business under section 1520(a)(3) of this title, to conditions it considers appropriate, including the giving of security or the filing of a bond.

"(c) The court may, at the request of the foreign representative or an entity affected by relief granted under this title, to initiate actions under sections 522, 544, 545, 547, 548, 550, 553, and 724(a).

"(d) Section 1104(a) shall apply to the appointment of an examiner under this chapter. Any examiner shall comply with the qualification requirements imposed on a trustee by section 322.

"§ 1525. Actions to avoid acts detrimental to creditors

"(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a case concerning the debtor to pend any proceeding of this title to initiate actions under sections 522, 544, 545, 547, 548, 550, 553, and 724(a).

"(b) When the foreign proceeding is a foreign main proceeding, the court must be satisfied that an action under subsection (a) relates to assets that, under United States law, should be administered in the foreign main proceeding.

"§ 1524. Intervention by a foreign representative

"(a) Upon recognition of a foreign proceeding, the foreign representative may intervene in any proceedings in a State or Federal court in the United States in which the debtor is a party.

"(b) The foreign representative shall seek cooperation and coordination under sections 1525, 1526, and 1527.

"§ 1525. Cooperation and direct communication between the court and foreign courts or foreign representatives

"(a) Consistent with section 1501, the court shall cooperate to the extent possible with foreign courts or foreign representatives, either directly or through the trustee.

"(b) The court is entitled to communicate directly with, or to request information or assistance directly from, foreign courts or foreign representatives, subject to the rights of parties in interest to notice and participation.

"§ 1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives

"(a) Consistent with section 1501, the trustee or other person, including an examiner, authorized by the court, shall, subject to the supervision of the court, cooperate to the maximum extent possible with foreign courts or foreign representatives.

"(b) The trustee or other person, including an examiner, authorized by the court is entitled, subject to the supervision of the court, to communicate directly with foreign courts or foreign representatives.

"§ 1527. Forms of cooperation

"(a) Cooperation referred to in sections 1525 and 1526 may be implemented by any appropriate means, including—

"(1) appointment of a person or body, including an examiner, to act at the direction of the court;

"(2) communication of information by any means considered appropriate by the court;

"(3) coordination of the administration and supervision of the debtor's assets and affairs;

"(4) approval or implementation of agreements concerning the coordination of proceedings; and

"(5) coordination of concurrent proceedings regarding the same debtor.

"SUBCHAPTER V—CONCURRENT PROCEEDINGS

"§ 1528. Commencement of a case under this title after recognition of a foreign main proceeding

"Upon recognition of a foreign main proceeding, a case under another chapter of this title may be commenced only if the debtor has assets in the United States. The effects of such case shall be restricted to the assets of the debtor that are within the territorial jurisdiction of the United States and, to the extent necessary to implement cooperation and coordination under sections 1525, 1526, and 1527, and any proceedings in a State or Federal court in the United States to the foreign main proceeding must be consistent with the case in the United States; and

"(1) If a case in the United States is taking place concurrently regarding the same debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

"(A) any relief or in effect under section 1519 or 1521 must be consistent with the relief granted in the case in the United States; and

"(B) if the foreign proceeding is recognized as a foreign main proceeding, section 1520 does not apply.

"(2) If a case in the United States under this title commences after recognition, or after the filing of the petition for recognition, of the foreign proceeding—

"(A) any relief in effect under section 1519 or 1521 shall be revocable by the court and shall be modified or terminated if inconsistent with the case in the United States; and

"(B) if the foreign proceeding is a foreign main proceeding, the stay and suspension referred to in section 1520(a) shall be modified or terminated if inconsistent with the relief granted in the case in the United States; and

"(3) In granting, extending, or modifying relief granted to a representative of a foreign main proceeding, the court must be satisfied that the relief relates to assets that, under the laws of the United States, should be administered in the foreign main proceeding or concerns information required in that proceeding.

"(4) In achieving cooperation and coordination under sections 1525 and 1526, the court may grant any of the relief authorized under section 305.

"§ 1530. Coordination of more than 1 foreign proceeding

"(1) If a case in the United States under this title commences after recognition, or after the filing of the
a petition for recognition, of a foreign nonmain proceeding, any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated to conform, if consistent with the foreign main proceeding.

(3) If, after recognition of a foreign nonmain proceeding, another foreign main proceeding is recognized, the court shall not grant, modify, or terminate relief for the purpose of facilitating coordination of the proceedings.

§ 1531. Presumption of insolvency based on recognition of a foreign main proceeding

"In the absence of evidence to the contrary, recognition of a foreign main proceeding is, for the purpose of commencing a proceeding under section 1519, proof of the fact that the debtor is generally not paying its debts as such debts become due."

§ 1532. Rule of payment in concurrent proceedings

"Without prejudice to secured claims or rights in rem, a creditor who has received payment with respect to its claim in a foreign proceeding pursuant to a law relating to insolvency may not receive a payment for the same debt under any other chapter of this title regarding the debtor, so long as the payment to other creditors of the same class is proportionately less than the payments to other creditors who has already received payment."

(b) CLERICAL AMENDMENT.—The Table of Chapters for title 11, United States Code, is amended by inserting after the item relating to chapter 13 the following:

"15. Ancillary and Other Cross-Border Cases __________________________ 1501".

SEC. 902. OTHER AMENDMENTS TO TITLES 11 AND 36 OF UNITED STATES CODE

(a) APPLICABILITY OF CHAPTERS.—Section 103 of title 11, United States Code, is amended—

(1) in subsection (a), by inserting before the period the following: "and this chapter, sections 307, 362(1), 555 through 557, and 559 through 562 apply in a case under chapter 15;" and

(2) by adding at the end the following:

"(j) Chapter 15 applies only in a case under such chapter, except that—"

(1) sections 1554, 1559, and 1514 apply in all cases under this title; and

(2) "section 1559 applies whether or not a case under this title is pending.

(b) SECTION 1102.—Section 1102 of title 11, United States Code, is amended by striking paragraphs (23) and (24) and inserting the following:

"(22) ‘foreign proceeding’ means a collective judicial or administrative proceeding in a foreign country, including an interim proceeding, under a law relating to insolvency or adjustment of debt in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;"

"(23) ‘foreign representative’ means a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor’s assets or affairs or to act as a representative of the foreign proceeding;"

(c) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—

(1) PROCEDURES.—Section 157(b)(2) of title 28, United States Code, is amended—

(A) by striking (N), by striking “and “at the end;

(B) in subparagraph (O), by striking the period at the end and inserting “; and “; and

(C) by adding the following:

“(P) recognition of foreign proceedings and other matters under chapter 15 of title 11.”.

(2) BANKRUPTCY CASES AND PROCEEDINGS.—Section 1334(c) of title 28, United States Code, is amended by striking “Nothing in” and inserting “Except with respect to a case under chapter 15 of title 11, nothing in”.

(3) DUTIES OF TRUSTEE.—Section 586(a)(3) of title 28, United States Code, is amended by striking “or 13” and inserting “13, or 15,”.

(4) INTEREST IN CASES ANCILLARY TO FOREIGN PROCEEDINGS.—Section 1410 of title 28, United States Code, is amended to read as follows:

"§ 1410. Venue of cases ancillary to foreign proceedings.

"A case under chapter 15 of title 11 may be commenced in the district court for the district—"

(1) in which the debtor has its principal place of business or principal assets in the United States;

(2) if the debtor does not have a place of business or assets in the United States, in which there is pending against the debtor an action or proceeding in a Federal or State court;

(3) in a case other than those specified in paragraph (1) or (2), in which venue will be consistent with the interests of justice and the convenience of the parties, having regard to the relief sought by the foreign representative.

(5) Section 508 of title 11, United States Code, is amended to read as follows:

"§ 508. Venue of cases ancillary to foreign proceedings.

"Proceedings in this chapter, sections 1505, 1513, and 1514 apply in all cases under chapter 13 the following:

(23) ‘foreign proceeding’ means a collective judicial or administrative proceeding in a foreign country, including an interim proceeding, under a law relating to insolvency or adjustment of debt in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;"

(24) ‘foreign representative’ means a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor’s assets or affairs or to act as a representative of the foreign proceeding;"

2. **FINANCIAL CONTRACT PROVISIONS**

SEC. 901. TREATMENT OF CERTAIN AGREEMENTS BY CONSERVATORS OR RECEIVERS OF INSURED DEPOSITORY INSTITUTIONS

(a) DEFINITION OF QUALIFIED CONTRACT.—Section 11(e)(8)(D)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(i)) is amended by striking "qualifying agreement" and inserting "any similar agreement that the Corporation determines by regulation".

(b) DEFINITION OF SECURITIES CONTRACT.—Section 11(e)(8)(D)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(ii)) is amended by striking the following:

"(I) a master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to such master agreement, without regard to whether the master agreement provides for an agreement or transaction under the master agreement that is similar to any agreement or transaction referred to in this clause;"

(c) DEFINITION OF COMMODITY CONTRACT.—Section 11(e)(8)(D)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iii)) is amended by striking the following:

"(I) means any agreement or transaction under the master agreement referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), and includes any contract, agreement, or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause;"

(d) COMMODITY CONTRACT.—The term ‘commodity contract’ means—

(1) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade, and includes any agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause;

(2) with respect to a foreign futures commission merchant, a foreign future;

(3) with respect to a leveraged transaction merchant, a leveraged transaction;
board of trade that is cleared by such clearing organization;

‘(V) with respect to a commodity options dealer, a commodity option;

‘(VI) a credit enhancement transaction or transaction that is similar to any agreement or transaction referred to in this clause;

‘(VII) any combination of the agreements or transactions referred to in this clause;

‘(VIII) any option to enter into any agreement or transaction referred to in this clause;’.

IX] a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

‘(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.’.

(d) DEFINITION OF FORWARD CONTRACT.—Section 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows:

(iv) FORWARD CONTRACT.—The term ‘forward contract’ means—

‘(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

‘(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

‘(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

‘(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); and

‘(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

For purposes of this clause, the term ‘qualified foreign government security’ means a security that is a direct obligation of, or that is fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under the master agreement, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in any such subclause.

Such term is applicable for purposes of this title only and shall not be construed or applied so as to challenge or affect the character, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Acts of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2001.

(g) DEFINITION OF TRANSFER.—Section 11(e)(8)(D)(vii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vii)) is amended to read as follows:

(vii) TRANSFER.—The term ‘transfer’ means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or an interest in property, including re-tention of title as a security interest and foreclosure of the depository institution’s equity of redemption.’’.

(h) TREATMENT OF QUALIFIED FINANCIAL CONTRACTS.—Section 11(e)(8)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(B)) is amended—

(1) in subparagraph (A)—

(A) by striking ‘‘paragraph (10)’’ and inserting ‘‘paragraphs (9) and (10)’’;

(B) in clause (i), by striking ‘‘to cause the termination or liquidation’’ and inserting ‘‘such person has to cause the termination, liquidation, or restructuring in good faith’’;

(C) by striking clause (ii) and inserting the following:

‘‘(ii) the terms ‘swap agreement’ and ‘derivative agreement’ mean—

‘‘(A) any agreement, including related terms, that provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in section 11(e)(8)(D)(v) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(v))), or mortgage-related securities or mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers’ acceptances, qualified foreign government securities, or other credit enhancements, related to any agreement or transaction referred to in such agreement and that is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities of a type that has been, is presently, or in the future becomes, the subject of recent dealings in the swap markets (including terms that are incorporated by reference in such agreement) and that is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities of a type that has been, is presently, or in the future becomes, the subject of recent dealings in the swap markets (including terms that are incorporated by reference in such agreement); or

‘‘(B) any agreement, including related terms, that provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in section 11(e)(8)(D)(v) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(v))), or mortgage-related securities or mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers’ acceptances, qualified foreign government securities, or other credit enhancements, related to any agreement or transaction referred to in such agreement and that is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities of a type that has been, is presently, or in the future becomes, the subject of recent dealings in the swap markets (including terms that are incorporated by reference in such agreement) and that is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities of a type that has been, is presently, or in the future becomes, the subject of recent dealings in the swap markets (including terms that are incorporated by reference in such agreement); or

‘‘(C) any agreement that includes any repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any repurchase obligation related to any agreement or transaction referred to in this clause including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause;’’. 

(2) in paragraph (10), by striking ‘‘andParagraph subparagraph (A)’’ and inserting ‘‘and subparagraphs (A) and (B)’’.
“(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);”;

and

“(2) in subparagraph (E), by striking clause (ii) and inserting the following:

“(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i).”

SEC. 902. AUTHORITY OF THE CORPORATION WITH RESPECT TO FAILED AND FAILING INSTITUTIONS.

(a) In General.—Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

“(1) in subparagraph (E), by striking “other than subparagraphs (d)(9) and (e)(10)” and inserting “other than subparagraphs (d)(9) and (e)(10)”;

and

“(2) by adding at the end the following new subparagraphs:

“(P) CLARIFICATION.—No provision of law shall be construed as limiting the right or power of the Corporation, or authorizing any court or agency to limit or delay, in any manner, the exercise of rights or powers by the Corporation by regulation to be a financial institution, a futures commission merchant, or a clearing organization to transfer or to discharge or to disaffirm or repudiate any such contract in accordance with subsection (e)(1) of this section.

“(Q) WALKAWAY CLAUSES NOT EFFECTIVE.—

“(i) In general.—Notwithstanding the provisions of subparagraphs (A) and (B) of section 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator or receiver for the depository institution or the insolvency or financial condition of the depository institution for which the conservator has been appointed:

“(II) any right under any security agreement or arrangement or other credit enhancements for any contract described in subsection (i) or (ii) under any such contract; and

“(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

“(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In a qualified financial contract and related claims and property under subparagraph (A)(i), the conservator or receiver for the depository institution shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancements related to one or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, agreements, arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

“(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that a conservator or receiver transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i), such contract is subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

“(D) DEFINITIONS.—For purposes of this paragraph, the term ‘qualified financial institution’ means a broker or dealer, a depository institution, a futures commission merchant, or any other institution, as determined by the Corporation by regulation to be a financial institution, and the term ‘clearing organization’ has the meaning given in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.”

(b) Technical and Conforming Amendments.—Section 11(e)(12)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(12)(A)) is amended—

“(1) by redesignating paragraphs (11) through (13) as paragraphs (12) through (14), respectively;

and

“(2) by adding after paragraph (10) the following new paragraph:

“(II) at the time of a purchase and assumption transaction between the depository institution and the Corporation as receiver for a depository institution in multiple.

SEC. 904. AMENDMENTS RELATING TO DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.

Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)) is amended—

“(1) by redesignating paragraphs (B) as subparagraph (D); and

“(2) by inserting after paragraph (A) the following new subparagraphs:

“(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

“(i) RECEIVERSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of the appointment of a receiver for the depository institution (or the insolvency or financial condition of the depository institution for which the receiver has been appointed):

“(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver; or

“(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

“(ii) CONSERVATORS.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or sections 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the depository institution (or the insolvency or financial condition of the depository institution for which the conservator has been appointed).

“(iii) NOTICE.—For purposes of this paragraph, the Corporation as receiver or conservator of an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or sections 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the depository institution (or the insolvency or financial condition of the depository institution for which the conservator has been appointed).

“(iv) TREATMENT OF BRIDGE BANKS.—The following institutions shall not be considered to be a financial institution for which a conservator, receiver, trustee, or other legal custodian has been appointed and shall not be considered to be a party to a qualified financial contract or subject to any netting contract, any security agreement or arrangement or other credit enhancements for any contract described in subsection (i) or (ii) under any such contract:

“(I) a bridge bank.

“(II) any depository institution organized by the Corporation, for which a conservator is appointed either—

“(I) immediately upon the organization of the institution; or

“(II) at the time of a purchase and assumption transaction between the depository institution and the Corporation as receiver for a depository institution in multiple.

“(II) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or receiver with respect to any qualified financial contract to which an insured depository institution is a party, the conservator or receiver for such institution shall either:

“(A) disaffirm or repudiate all qualified financial contracts between—
“(i) by inserting paragraphs (14)(A)(i) to (14)(A)(iv) in section 11(e)(1) of the Federal Deposit Insurance Act, as amended—

(1) by striking subsection (a) and inserting the following:

(‘‘(a) IN GENERAL.—Notwithstanding any other provision of law, other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act, any contract or agreement, together with all financial institutions shall be netted in accordance with their terms in the same manner, subject to the conditions of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and any other law or regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities law (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.’’); and

(2) by adding at the end the following new paragraph:

‘‘(i) the depository institution in default;’’

(3) in paragraph (i), by inserting before the semicolon ‘‘, or is exempt from such registration by order of the Securities and Exchange Commission’’; and

(4) by redesignating subparagraphs (B) through (H) as subparagraphs (C) through (H), respectively;

(B) by inserting after subparagraph (A) the following new subparagraph:

‘‘(B) branch of a foreign bank, a foreign bank and any branch or agency of the foreign bank, or the foreign bank that establishes or maintains an uninsured financial institution under section 5 of the Federal Deposit Insurance Act;’’; and

(C) by amending subparagraph (C) (as redesignated) to read as follows:

‘‘(C) a branch or agency of a foreign bank, a foreign bank and any branch or agency of the foreign bank, or the foreign bank that establishes or maintains an uninsured financial institution under section 5 of the Federal Deposit Insurance Act;’’;

(3) in paragraph (11), by inserting before the period ‘‘and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970).’’;

(d) ENFORCEABILITY OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.—The Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4601 et seq.) is amended—

(1) by redesigning section 407 as section 407A; and

(2) by inserting after section 406 the following new section:

‘‘SEC. 407. TREATMENT OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.

‘‘(a) In general.—Notwithstanding any other provision of law, other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act, any contract or agreement, together with all financial institutions shall be netted in accordance with their terms in the same manner, subject to the conditions of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and any other law or regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities law (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.’’; and

(4) by amending paragraph (14)(A)(i) to read as follows:

‘‘(i) means a contract or agreement between 2 or more financial institutions, clearing organizations (as those terms are defined in section 1(b) of the Federal Reserve Act, or an uninsured Federal branch or agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank, or an uninsured Federal branch or agency, or to the receiver or conservator appointed by the Comptroller of the Currency in the case of an uninsured national bank or an uninsured Federal branch or agency, a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank;’’

(2) any reference to the ‘Corporation’ or ‘the Corporation’ shall refer to the receiver appointed by the Comptroller of the Currency in the case of an uninsured national bank or an uninsured Federal branch or agency, or to the receiver or conservator appointed by the Comptroller of the Currency in the case of an uninsured national bank or an uninsured Federal branch or agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, except that for such purpose—

‘‘(1) any reference to the ‘Corporation’ or the receiver, or a ‘receiver’, or a ‘conservator’ shall refer to the receiver or conservator appointed by the Comptroller of the Currency in the case of an uninsured national bank or an uninsured Federal branch or agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, except that for such purpose—

‘‘(1) any reference to the ‘Corporation’ or ‘the Corporation’ shall refer to the receiver appointed by the Comptroller of the Currency in the case of an uninsured national bank or an uninsured Federal branch or agency, or to the receiver or conservator appointed by the Comptroller of the Currency in the case of an uninsured national bank or an uninsured Federal branch or agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, except that for such purpose—

‘‘(1) by inserting ‘and conservators of insured depository institutions under section 1(e) of the Federal Deposit Insurance Act’’ after ‘the Comptroller of the Currency’; and

‘‘(2) by adding a new subsection (b) to read as follows:

‘‘(b) LIABILITY.—The liability of a receiver or conservator of an insured national bank, an uninsured Federal branch or agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, shall be determined in the same manner and subject to the same limitations that apply to receivers and conservators of insured depository institutions under section 1(e) of the Federal Deposit Insurance Act.’’

(c) REGULATORY AUTHORITY.

‘‘(1) IN GENERAL.—The Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency and the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4601 et seq.) is amended—

(1) by redesigning section 407 as section 407A; and

(2) by inserting after section 406 the following new section:

‘‘SEC. 407. TREATMENT OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.

‘‘(a) In general.—Notwithstanding any other provision of law, other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act, the term ‘payment’ means a payment of United States dollars, another currency, or a composite currency, and a noncash delivery, including a payment or delivery to liquidate an unmatured obligation.’’

(b) ENFORCEABILITY OF BILATERAL NETTING CONTRACTS.—Section 406 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4403) is amended—

(1) by redesigning section 407 as section 407A; and

(2) by inserting after section 406 the following new section:

‘‘SEC. 407. TREATMENT OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.

‘‘(a) In general.—Notwithstanding any other provision of law, other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act, any contract or agreement, together with all financial institutions shall be netted in accordance with their terms in the same manner, subject to the conditions of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code);’’ and

(2) by adding at the end the following new paragraph:

‘‘(f) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and any other law or regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities law (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.)’’; and

(3) in paragraph (11), by inserting before the period ‘‘and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970),’’ the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted in accordance with, and subject to the conditions of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code).’’;}
Federal Reserve Act, or an uninsured State member bank that operates, or operates as, a multilateral clearing organization pursuant to section 409 of the Act, in consultation with the Federal Deposit Insurance Corporation, may each promulgate regulations solely to implement this section.

(2) Specific requirements.—In promulgating regulations, limited solely to implementing paragraphs (8), (9), (10), and (11) of section 1(e) of the Federal Deposit Insurance Act, the Comptroller of the Currency and the Board of Governors of the Federal Reserve System each shall ensure that their regulations generally are consistent with the regulations and policies of the Federal Deposit Insurance Corporation adopted pursuant to the Federal Deposit Insurance Act.

(d) Definitions.—For purposes of this section, the terms ‘Federal branch’, ‘Federal agency’, and ‘foreign bank’ have the same meanings as in section 1(b) of the International Banking Act of 1978.”

SEC. 907. BANKRUPTCY CODE AMENDMENTS.

(a) Definitions of Forward Contract, Repurchase Agreement, Swap Agreement, Commodity Contract, and Securities Contract.—Title 11, United States Code, is amended—

(I) in section 101— (A) in paragraph (25)— (i) by striking “means a contract” and inserting “means—”; (ii) by striking “or any combination thereof or option thereon;” and inserting “or”; and (iii) by adding at the end the following: “(A) any option to enter into an agreement or transaction referred to in subparagraphs (A) or (B);” (B) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), or (C), together with all supplements to such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a forward contract under this paragraph, except that such master agreement shall be considered to be a repurchase agreement under this paragraph only with respect to each agreement or transaction referred to in clause (i), (ii), or (iii); and (v) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in this subparagraph; (2) in section 102, by striking “(i) a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;” (3) in section 102A, by striking “the Legal Certainty for Bank Products” and inserting the following: “(I) is of a type that has been, is presently, or before the date of” and inserting “at any time before”; (4) in section 102B, by striking “any option entered into on a national securities exchange, or any agreement or arrangement referred to in subsection (a)(1), (2), (3), or (4);” (5) by amending section 102B to read as follows: “(B) ‘swap agreement’— (A) means— (i) any agreement, including the terms and conditions incorporated by reference in such agreement, which is— (I) an interest rate swap, option, future, or forward agreement, including an agreement with a floating-rate, fixed-rate, caps, floors, or variable-rate agreements; (II) a currency swap, option, future, or forward agreement; (III) a commodity swap, option, future, or forward agreement; (IV) a debt index or equity swap, option, future, or forward agreement; (V) a commodity index or a commodity swap, option, future, or forward agreement; or (VI) a total return, credit swap, or credit guarantee or reimbursement obligation by or to a swap participant or financial participant in connection with any such agreement or transaction, measured in accordance with section 562 and section 563; and (B) does not include a repurchase obligation under a participation in a commercial mortgage loan.” (6) in paragraph (48), by striking “, or exempt from such registration under such section by reason of such agreement or transaction pursuant to an order of the Securities and Exchange Commission,” after “1934”; and (7) by amending paragraph (53B) to read as follows: “(53B) ‘swap agreement’— (A) means— (i) any agreement, including the terms and conditions incorporated by reference in such agreement, which is— (I) an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; (II) a spot, same day/tomorrow, or forward agreement; (III) an equity index or equity swap, option, future, or forward agreement; (IV) a total return, credit swap, or credit guarantee or reimbursement obligation by or to a swap participant or financial participant in connection with any such agreement or transaction, measured in accordance with section 562; and (B) does not include a repurchase obligation under a participation in a commercial mortgage loan.” (b) In paragraph (48), by striking “or option on one or more rates, currencies, commodities, equity securities, or other equity instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, economic, or commodity price, or economic or financial indices or measures of economic or financial risk or value;” (c) any combination of agreements or transactions referred to in the preceding subparagraph; (iv) any option to enter into an agreement or transaction referred to in this subparagraph; (v) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), or (iv), together with all supplements to any such master agreement, and without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this paragraph, except that the master agreement shall be considered to be a swap agreement under this paragraph only with respect to each agreement or transaction referred to in the master agreement that is referred to in clause (i), (ii), (iii), or (iv); or (vi) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in clause (i) through (v) including any guarantee or reimbursement obligation by or to a swap participant or financial participant in connection with any such agreement or transaction, measured in accordance with section 562; and (b) is applicable for purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.”; (2) in section 7417, by striking paragraph (7) and inserting the following: “(v) ‘securities contract’— (A) means— (i) a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option; (ii) any option entered into on a national securities exchange relating to foreign currencies; (iii) the guarantee by or to any securities clearing agency of a settlement of cash, securities, certificates of deposit, mortgage loans, interests in mortgage related securities, or mortgage loans or interests therein (including any interest therein or
(A) a Federal reserve bank, or an entity (domestic or foreign) that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, or receiver, trustee, or conservator of such an entity and, when any such Federal reserve bank, receiver, conservator or entity is acting as agent or custodian for a customer in connection with a swap agreement, as defined in section 741, such customer; or

(B) in connection with a securities contract, swap agreement, repurchase agreement, or forward contract, or at the time of the filling of the petition, has one or more agreements or transactions described in paragraph (1), (2), (3), (4), (5), or (6) of section 561(a) with the debtor or any other entity (other than an affiliate) of a total gross dollar value of not less than $1,000,000,000 in notional or actual principal amount outstanding at any time during the previous 15-month period, or has gross mark-to-market positions of not less than $100,000,000 (aggregated across counterparties) in one or more commodity contracts under this subparagraph, except that the master agreement shall be considered across counterparties in one or more commodity contracts under this subparagraph, except that the master agreement shall be considered to be a master netting agreement only with respect to those agreements or transactions that are not contracts described in paragraphs (1) through (5) of section 561(a), or any security agreement or arrangement related to one or more of the foregoing, including any guarantee or reimbursement obligation related to any agreement or transaction referred to in this subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562, and

(B) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan.

(d) Definitions.

(1) Financial institution.—Section 101 of title 11, United States Code, as amended by this Act, is amended—

(A) by striking ’’swap participant’’ each place that term appears; and

(B) by adding, after ’’swap participant’’ each place that term appears, ’’or financial participant’’.

(2) In general.—Section 362(b) of title 11, United States Code, as amended by this Act, is amended—

(A) in paragraph (6), by inserting ’’and to under the control of,’’ after ’’held by’’;

(B) in paragraph (7), by inserting ’’and to under the control of,’’ after ’’held by’’;

(C) by striking paragraph (17) and inserting the following:

(17) under subsection (a), of the setoff by a swap participant or financial participant of a mutual debt and claim under or in connection with one or more swap agreements that constitutes the setoff of a claim against the debtor for any payment due to a master netting agreement participant under or in connection with any swap agreement against any payment due to the debtor from the swap participant or financial participant under or in connection with any swap agreement or against cash, securities, or other property held by, pledged to and under the control of, or due from such swap participant or financial participant to margin, guaranty, secure, or settle any swap agreement or contract; and

(2) by adding after paragraph (26), as added by this Act, the following new paragraph:

(27) In connection with a securities contract, swap agreement, repurchase agreement, or forward contract trade;’’.

(2) Limitation.—Section 362 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

(m) Limitation.—The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), (17), or (27) of subsection (b) shall not be stayed by any order of a court or administrative agency in any proceeding under this title;.

(e) Limitation of Avoidance Powers Under Master Netting Agreement.—Section 546 of title 11, United States Code, as amended by this Act, is amended—

(1) in subsection (g) as added by section 108 of Public Law 101–311,

(A) by striking ’’under a swap agreement’’;

(B) by striking ’’in connection with a swap agreement’’ and inserting ’’under in connection with any swap agreement’’; and

(C) by inserting ’’or financial participant’’ after ’’swap participant’’ each place that term appears; and

(2) by adding at the end the following:

(B) notwithstanding sections 541, 546, 547, 58a(1)(B), and 58(b) the trustee may not avoid a transfer made by or to a master netting agreement participant under or in connection with any master netting agreement or any individual contract covered thereby
that is made before the commencement of the case, except under section 548(a)(1)(A) and except to the extent that the trustee could otherwise avoid such a transfer made under section 548(a)(2) except as modified by such master netting agreement.”.

(f) FRAUDULENT TRANSFERS OF MASTER NETTING AGREEMENTS.—Section 548(d)(2) of title 11, United States Code, is amended—

(1) in subparagraph (C), by striking “and” at the end;

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

(3) by adding at the end the following new subparagraph:

“(E) a master netting agreement participant under that subchapter V;”.

(g) TERMINATION OR ACCELERATION OF SECURITIES CONTRACTS.—Section 556 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

“§ 556. Contractual right to liquidate, terminate, or accelerate a securities contract”;

and

(2) in the first sentence, by striking “liquidity” and inserting “termination, acceleration, or liquidation”;

(h) TERMINATION OR ACCELERATION OF COMMODITIES OR FORWARD CONTRACTS.—Section 556 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

“§ 556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract”;

(2) in the first sentence, by striking “liquidity” and inserting “termination, liquidation, or acceleration”; and

(3) in the second sentence, by striking “liquidation, or acceleration” and inserting “liquidation, termination, or acceleration of one or more swap agreements”; and

(i) LIQUIDATION, TERMINATION, OR ACCELERATION OF SWAP AGREEMENTS.—Section 560 of the Commodity Exchange Act, as amended by the Commodity Futures Trading Commission, is amended by adding at the end the following new paragraph:

“(g) TERMINATION OR ACCELERATION OF SWAP AGREEMENTS.—Section 560 of the Commodity Exchange Act (47 U.S.C. 560) is amended by adding at the end the following new paragraph:

“(3) by adding at the end the following new subparagraph:

“(E) a master netting agreement participant under that subchapter V;”.

(j) L IQUIDATION, T ERMINATION, OR ACCELERATION, OR OFFSET UNDER A MASTER NETTING AGREEMENT AND ACROSS CONTRACTS.—

(1) in GENERAL.—Title 11, United States Code, is amended by inserting after section 560 the following:

“§ 561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts;

proceedings under chapter 15

(a) in GENERAL.—Subject to subsection (b), a party to a contract or a contractual right, because of a cause of the condition of the kind specified in section 365(e)(1), to cause the termination, liquidation, or acceleration of or to offset or net, in whole or in part, any netting amounts, a cross-margining agreement, a liquidation, termination, or acceleration of or to offset or net, in whole or in part, any netting amounts, or other transfer obligations arising under or in connection with one or more (or the termination, liquidation, or acceleration of one or more)

(1) securities contracts, as defined in section 741(f);

(2) commodities contracts, as defined in section 761(4);

(3) forward contracts;

(4) repurchase agreements;

(5) swap agreements;

(6) master netting agreements, shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by any order of a court or administrative agency in any proceeding under this title.

(b) EXCEPTION.—

(1) in GENERAL.—A party may exercise a contractual right described in subsection (a) to terminate, liquidate, or accelerate only to the extent that such party could exercise such a right under section 555, 556, 559, or 560 for each individual contract covered by the master netting agreement in issue.

(2) In the case of a debtor that is a commodity broker subject to subchapter IV of chapter 7—

“(A) a party may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising out of such a contract, in order to (i) under common law, under law merchant, or otherwise, whether or not evidenced in writing, arising under common law, in writing, arising under common law, or by reason of normal business practice.

“(C) DEFINITION.—As used in this section, the term ‘contractual right’ includes a right set forth in a rule or bylaw of a derivatives transaction execution facility registered under the Commodity Exchange Act or in a resolution of the governing board thereof, and a right, whether or not evidenced in writing, arising under common law, in writing, arising under common law, or by reason of normal business practice.

“(D) CASES ANCILLARY TO FOREIGN PROCEEDINGS.—Any provisions of this title relating to securities contracts, commodity contracts, forward contracts, repurchase agreements, swap agreements, or master netting agreements shall apply in a case under chapter 15 of this title, so that enforcement of contractual provisions of such contracts and agreements in accordance with their terms will not be stayed or otherwise limited by operation of any provision of this title or by any order of a court in any case under this title, and to limit avoidance powers to the same extent as in a proceeding under chapter 7 or 11 of this title (such enforcement not to be limited based on the presence or absence of assets of the debtor in the United States).”.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 560 the following:
(l) COMMODITY BROKER LIQUIDATIONS.—

Title 11, United States Code, is amended by inserting after section 766 the following:

"766. Liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.

"Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.

(m) STOCKBROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 752 the following:

"753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.

"Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, securities clearing agency, swap participant, repo participant, financial participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.

(n) SETUP.—Section 553 of title 11, United States Code, is amended—

(1) in subsection (a)(2)(B)(i), by inserting before the semicolon the following: "(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561);"

(2) in subsection (a)(3)(C), by inserting before the period the following: "(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561 of this title); and"

(3) in subsection (b)(1), by striking "362(b)(14)," and inserting "362(b)(17), 362(b)(27), 555, 556, 559, 560, 561,"

(o) SECURITIES CONTRACTS, COMMODITY CONTRACTS, AND COMMODITY BROKER LIQUIDATION.—Title 11, United States Code, is amended—

(1) in section 362(b)(6), by striking "financial institutions," each place such term appears and inserting "financial institution, financial participant,";

(2) in sections 362(b)(7) and 546(f), by inserting "or financial participant" after "repo participant" each place that term appears;

(3) in section 546(e), by inserting "financial participant," after "financial institution;"

(4) in section 548(h)(2)(B), by inserting "financial participant," after "financial institution;"

(5) in section 548(h)(2)(C)(i), by inserting "or financial participant" after "repo participant;"

(6) in section 548(h)(2)(D), by inserting "or financial participant" after "swap participant;"

(p) SECURITIES BROKER/COMMODITY BROKER LIQUIDATION.—The Securities and Exchange Commission and the Commodity Futures Trading Commission may consult with each other with respect to the treatment in such a liquidation of accounts in which both commodity contracts and securities are carried.

SEC. 907A. SECURITY BROKER/COMMODITY BROKER LIQUIDATION.

The Securities and Exchange Commission and the Commodity Futures Trading Commission may consult with each other with respect to the treatment in such a liquidation of accounts in which both commodity contracts and securities are carried.

SEC. 908. RECORDKEEPING REQUIREMENTS.

Title 11, United States Code, is amended—

(1) by inserting "(11)" after "(9);"

(2) by adding at the end the following new sub-paragraph:

"(11) RECORDKEEPING REQUIREMENTS.—The Corporation, in consultation with the appropriate Federal banking agencies, may by regulation require more detailed recordkeeping by any insured depository institution with respect to qualified financial contracts (as defined in section 362(b)(27), 555, 556, 559, 560, or 561) of the Corporation pursuant to 12 U.S.C. 1821(i))."

SEC. 909. EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.

Section 13(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1831k(e)(2)) is amended to read as follows:

"(2) EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.—An agreement to provide for the lawful collateralization of—

"(A) deposits of, or other credit extension by, a Federal, State, or local governmental entity, or of any depository referred to in section 11(a)(2), including an agreement to provide collateral in lieu of a surety bond;

"(B) bankruptcy estate funds pursuant to section 365(b)(2) of title 11, United States Code;

"(C) extensions of credit, including any overdraft, from a Federal reserve bank or Federal home loan bank;

"(D) one or more qualified financial contracts, as defined in section 365(b)(2), shall not be deemed invalid pursuant to paragraph (1)(B) solely because such agreement was not executed contemporaneously with the acquisition of the collateral or be deemed to constitute a substitution of the collateral made in accordance with such agreement.

SEC. 910. DAMAGE MEASURE.

SEC. 911. IN GENERAL.—Title 11, United States Code, is amended—

(1) by inserting after section 561, as added by this Act, the following:

"562. Damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements.

"If the trustee rejects a swap agreement, securities contract (as defined in section 741), forward contract, commodity contract (as defined in section 761), repurchase agreement, or master netting agreement pursuant to section 365(a), or a financial participant or master netting agreement participant or swap participant liquidates, terminates, or accelerates such contract or agreement, damages shall be measured as of the earlier of—

"(1) the date of such rejection; or

"(2) the date of such liquidation, termination, or acceleration; and"

(2) in the table of sections for chapter 5, by inserting after the item relating to section 561 (as added by this Act) the following:

"562. Damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements.

"If the trustee rejects a swap agreement, securities contract (as defined in section 741), forward contract, commodity contract (as defined in section 761), repurchase agreement, or master netting agreement pursuant to section 365(a), or a financial participant or master netting agreement participant or swap participant liquidates, terminates, or accelerates such contract or agreement, damages shall be measured as of the earlier of—

"(1) the date of such rejection; or

"(2) the date of such liquidation, termination, or acceleration; and"

"(3) in section 365(a), by inserting after the item relating to section 561 (as added by this Act) the following:

"562. Damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements.

"If the trustee rejects a swap agreement, securities contract (as defined in section 741), forward contract, commodity contract (as defined in section 761), repurchase agreement, or master netting agreement pursuant to section 365(a), or a financial participant or master netting agreement participant or swap participant liquidates, terminates, or accelerates such contract or agreement, damages shall be measured as of the earlier of—

"(1) the date of such rejection; or

"(2) the date of such liquidation, termination, or acceleration; and"

(3) in section 365(a), by inserting after the item relating to section 561 (as added by this Act) the following:

"562. Damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements.

"If the trustee rejects a swap agreement, securities contract (as defined in section 741), forward contract, commodity contract (as defined in section 761), repurchase agreement, or master netting agreement pursuant to section 365(a), or a financial participant or master netting agreement participant or swap participant liquidates, terminates, or accelerates such contract or agreement, damages shall be measured as of the earlier of—

"(1) the date of such rejection; or

"(2) the date of such liquidation, termination, or acceleration; and"
SEC. 911. SIPC STAY.
Section 5(b)(2) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78ee(b)(2)) is amended by adding at the end the following: 
"(C) EXCEPTION FROM STAY.—
"(i) Notwithstanding section 362 of title 11, United States Code, neither the filing of an application under subsection (a)(5) nor any order or decree obtained by SIPIC from the court shall operate as a stay of any contractual rights of a creditor to liquidate, terminate, modify, or enforce any securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, or master netting agreement, as those terms are defined in section 101 of title 11, United States Code, to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more of such contracts or agreements, or to foreclose on any cash collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements.

(ii) Notwithstanding clause (i), such application, order, or decree may operate as a stay of the foreclosure on, or disposition of, security or securities evidenced by the debtor, whether or not with respect to one or more of such contracts or agreements, securities sold by the debtor under a repurchase agreement, or securities lent under a securities lending agreement.

(iii) As used in this subparagraph, the term 'contractual right' includes a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency, a right set forth in a bylaw of a clearing organization of a 'clearing house' or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of custom or practice.

SEC. 912. ASSET-BACKED SECURITIZATIONS.
Section 541 of title 11, United States Code, is amended:

(1) in subsection (b), by inserting after paragraph (7), as added by this Act, the following:

"(8) any eligible asset (or proceeds thereo-"f), to the extent such eligible asset was transferred by the debtor, before the date of commencement of the case, to an eligible en- itity in connection with an asset-backed securitization, including cash collateral pledged by such asset (or proceeds or value thereof) may be recovered by the trustee under section 550 by virtue of avoidance under section 548(a); and

(2) by adding at the end the following new subsection:

"(1) For purposes of this section—
"(A) financial assets (including interests therein and proceeds therefrom), either fixed or re- volving, whether or not the same are in ex- istence as of the date of the transfer, includ- ing residential and commercial mortgage loans, real estate receivables, trade receiv- ables, assets of governmental units, includ- ing payment obligations relating to taxes, receipts, fines, tickets, and other sources of revenue or other receivables, that may be terms, convert into cash within a finite time period, plus any residual interest in property subject to receivables included in such financial assets plus any rights or other assets de- signed to assure the servicing or timely dis- tribution of proceeds to security holders;

"(B) cash;

"(C) securities, including without limita- tion, all securities issued by governmental units;

"(D) the term 'eligible entity' means—

"(A) an issuer; or

"(B) a trust, corporation, partnership, gov- ernmental unit, limited liability company (including a single member limited liability company), or other entity engaged exclu- sively in the business of acquiring and trans- ferreing eligible assets directly or indirectly to an issuer and making actions ancillary therto;

"(2) any amount of property to be distributed on account of, or in connection with, any transfer obligations arising under or in connection with one or more of such contracts or agreements, or to foreclose on any cash collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements, securities sold by the debtor under a repurchase agreement, or securities lent under a securities lending agreement.

"(i) Notwithstanding clause (i), such application, order, or decree may operate as a stay of the foreclosure on, or disposition of, security or securities evidenced by the debtor, whether or not with respect to one or more of such contracts or agreements, securities sold by the debtor under a repurchase agreement, or securities lent under a securities lending agreement.

"(ii) Notwithstanding clause (i), such application, order, or decree may operate as a stay of the foreclosure on, or disposition of, security or securities evidenced by the debtor, whether or not in writing, arising under common law, under law merchant, or by reason of custom or practice.

SEC. 913. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.
(a) EFFECTIVE DATE.—This title shall take effect on the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this title shall apply without limitation of—

"(1) whether the debtor had an obligation to repurchase or to service or supervise the servicing of all or any portion of such eligi- ble asset;

"(2) the characterization of such sale, con- traction, or other conveyance for tax, ac- counting, regulatory reporting, or other pur- poses; and

SEC. 914. SAVINGS CLAUSE.
The amendments made in this title are applicable for purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, def- inition, or treatment of similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, and the Commodity Exchange Act, as defined in section 3(a)(7) of the Securities Ex- change Act of 1934, and the Commodity Exchange Act.

TITLE X—PROTECTION OF FAMILY FARMERS AND FAMILY FISHERMEN
SEC. 1001. PERMANENT REENACTMENT OF CHAP- TER 12.
(a) REENACTMENT.—
(1) IN GENERAL.—Chapter 12 of title 11, United States Code, as reenacted by section 149 of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 106-277, 112 Stat. 2681-610), and amended by this Act, is reen- actect.

(2) EFFECTIVE DATE.—Subsection (a) shall be deemed to have taken effect on July 1, 2000.

(b) CONFORMING AMENDMENT.—Section 302 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1896 (28 U.S.C. 581 note) is amended by adding at the end the following:

"(4) The dollar amount in section 101(18) shall be adjusted at the same times and in the same manner as the dollar amounts in paragraph (1) of this subsection.

(b) EFFECTIVE DATE.—The first adjustment required by section 101(b)(4) of title 11, United States Code, as added by subsection (a) of this section, shall occur on the later of—

(1) April 1, 2001; or

(2) 90 days after the date of enactment of this Act.

SEC. 1003. CERTAIN CLAIMS OWED TO GOVERN- MENTAL UNITS.
(a) CONTENTS OF PLAN.—Section 1222(a)(2) of title 11, United States Code, is amended to read as follows:

"(2) provide for the full payment, in de- ferred cash payments, of all claims entitled to priority under section 507, unless—

"(A) the claim is a claim owed to a govern- mental unit that arises as a result of the sale, exchange, or other disposition of any farm asset used in the debtor's farm- ing operation, in which case the claim shall be treated as an unsecured claim that is not entitled to priority under section 507, but the debt shall be treated in such manner only if the debtor receives a discharge; or

"(B) the holder of a particular claim agrees to a different treatment of that claim;"

(b) SPECIAL NOTICE PROVISIONS.—Section 123(b) of title 11, United States Code, as so designated by this Act, is amended by strik- ing 'a State or local government unit' and inserting "any governmental unit".

SEC. 1004. DEFINITION OF FAMILY FARMER.
Section 101(18) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

"(A) by striking "$1,500,000" and inserting "$3,000,000"; and

"(B) by striking "90" and inserting "50"; and

(2) in subparagraph (B)—

"(A) by striking "$1,500,000" and inserting "$3,000,000"; and

"(B) by striking "80" and inserting "50".

SEC. 1005. ELIMINATION OF REQUIREMENT THAT FAMILY FARMER AND SPOUSE RE- CEIVE OVER 50 PERCENT OF IN- COME FROM FARMING OPERATION IN YEAR PRIOR TO BANKRUPTCY.
Section 101(18)(A) of title 11, United States Code, is amended by striking the "taxable year preceding the taxable year" and insert- ing "at least 1 of the 3 calendar years pre- ceeding the year".

SEC. 1006. PROHIBITION OF RETROACTIVE AS- SESSEMENT OF DISPOSABLE INCOME.
(a) In General.—Section 122(b) of title 11, United States Code, is amended by adding at the end the following:

"(3) If the plan provides for specific amounts of property to be distributed on an account of allowed unsecured claims as re- quired by paragraph (1)(B), those amounts equal or exceed the debtor's projected dispos- able income for that period, and the plan meets the requirement for continuation other than those of this subsection, the plan shall be confirmed."

(b) Elimination of Section 122(b) of title 11, United States Code, is amended by adding at the end the following:

"(4)(1) A modification of the plan under this section may not decrease the amount of payments that were due prior to the date of the order modifying the plan."
"(2) A modification of the plan under this section to increase payments based on an increase in the debtor's disposable income may not require payments to unsecured creditors in any period that are greater than the debtor's disposable income for that month, unless the debtor proposes such a modification."

"(3) A modification of the plan in the last year of the plan shall not require payments that would leave the debtor with insufficient funds to carry on the farming operation after the plan is completed, unless the debtor proposes such a modification.".

SEC. 1007. FAMILY FISHERMEN.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (7) the following:

"(7A) 'commercial fishing operation' includes—"

"(A) the catching or harvesting of fish, shrimp, lobsters, urchins, seaweed, shellfish, or other aquatic species or products;

(B) for purposes of section 109 and chapter 12, aquaculture activities consisting of raising for market any species or product described in subparagraph (A); and

(C) the transporting by vessel of a passenger or property, of a kind that is described in section 2101 of title 46 who is engaged in recreational fishing;

"(7B) 'commercial fishing vessel' means a vessel used by a fisherman to carry out a commercial fishing operation;"

(2) by inserting after paragraph (19) the following:

"(19A) 'family fisherman' means—"

"(A) an individual or individual and spouse engaged in a commercial fishing operation (including aquaculture for purposes of chapter 12);"

"(i) whose aggregate debts do not exceed $1,500,000 and not less than 80 percent of whose particular noncontingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such individual or such individual and spouse, and

(ii) whose individual or a seaman including a claim made for—

(A) wages, maintenance, or cure; or

(B) personal injury or illness; or

(2) in section 1206, by striking "if the property is farmland or farm equipment'' and inserting "if the property is farm and equipment, or property of a commercial fishing operation (including a commercial fishing vessel);" and

(3) by adding at the end the following:

"§ 1232. Additional provisions relating to family fishermen

(a)(1) Notwithstanding any other provision of law, except as provided in subsection (c), with respect to a commercial fishing vessel of a family fisherman, the debts of that family fisherman shall be treated in the manner prescribed in paragraph (2).

(2) For purposes of this chapter, a claim for a lien described in subsection (b) for a commercial fishing vessel of a family fisherman that could, but for this subsection, be subject to a lien under otherwise applicable maritime law, shall be treated as an unsecured claim.

(3) In section 1301, by inserting "or commercial fishing operation'' after "farm;"

(4) in section 1206, by striking "if the property is farmland or farm equipment'' and inserting "if the property is farm and equipment, or property of a commercial fishing operation (including a commercial fishing vessel);" and

(5) by adding at the end the following:

"1232. Additional provisions relating to family fishermen.

(a)(1) Notwithstanding any other provision of law, except as provided in subsection (c), with respect to a commercial fishing vessel of a family fisherman whose annual income is sufficiently stable to make payments under a plan under chapter 12 of this title:"

(b) WHO MAY BE A DEBTOR.—Section 109(f) of title 11, United States Code, is amended by inserting "family fisherman'' after "farmer''.

(c) CHAPTER 12.—Chapter 12 of title 11, United States Code, is amended—

(1) in the chapter heading, by inserting "OR FISHERMAN'' after "FAMILY FARMER'';

(2) in section 1201, by adding at the end the following:

"(e) Applicability.—Nothing in this section shall change, affect, or amend the Family Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801, et seq.).

TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

SEC. 1101. DEFINITIONS.

(a) HEALTH CARE BUSINESS DEFINED.—Section 101 of title 11, United States Code, is amended—

(1) by redesignating paragraph (27A), as added by this Act, as paragraph (27B); and

(2) by inserting after paragraph (27) the following:

"(27A) 'health care business'—"

"(A) means any public or private entity (without regard to whether that entity is organized for profit or not for profit) that is primarily engaged in offering to the general public facilities and services for—"

(i) the diagnosis or treatment of injury, deformity, or disease; and

(ii) surgical, drug treatment, psychiatric, or obstetric care; and

"(B) includes—"

(i) any—

(I) general or specialized hospital;

(II) ambulatory surgery center, hospital, or surgical treatment facility;

(III) hospice;

(IV) home health agency; and

(V) other health care institution that is similar to an entity referred to in subclause (I), (II), (III), or (IV); and

(ii) any long-term care facility, including any—

(I) skilled nursing facility;

(II) intermediate care facility;

(III) assisted living facility;

(IV) home for the aged;

(V) domiciliary care facility; and

(VI) health care institution that is related to a facility referred to in subclause (I), (II), (III), or (IV), if that institution is primarily engaged in offering room, board, laundry, or personal assistance with activities of daily living and incidentals to activities of daily living;".

(b) PATIENT AND PATIENT RECORDS PROTECTION.—Section 109(b) of title 11, United States Code, is amended by inserting after paragraph (40) the following:

"(40A) 'patient' means any person who obtains or receives services from a health care business;

"(40B) 'patient records' means any written document relating to a patient or a record or information in a magnetic, optical, or other form of electronic medium;".

(c) RULE OF CONSTRUCTION.—The amendments made by subsection (a) of this section shall not affect the interpretation of section 109(b) of title 11, United States Code.

SEC. 1102. DISPOSAL OF PATIENT RECORDS.

(a) IN GENERAL.—Subchapter III of chapter 12 of title 3 of title 11, United States Code, is amended by adding at the end the following:

"§ 351. Disposal of patient records

If a health care business commences a case under chapter 7, 9, or 11, and the trustee does not have a sufficient amount of funds to pay for the storage of patient records in the manner required under applicable Federal or State law, the following requirements shall apply:

(1) The trustee shall—

(A) promptly publish notice, in one or more appropriate newspapers in the patient's locale that patient records are not claimed by the patient or an insurance provider (if applicable law permits the insurance provider to make that claim) before that date of that notification, the trustee will destroy the patient records; and

(B) keep records and make payments necessary to effectuate the provisions of this subsection.
‘‘(B) during the first 180 days of the 365-day period described in subparagraph (A), promptly attempt to notify directly each patient that is the subject of the patient records to locate insurance carriers concerning the patient records by mailing to the last known address of that patient, or a family member or contact person for that patient or the health care business an appropriate notice regarding the claiming or disposing of patient records.

(2) If, after providing the notification under paragraph (1), patient records are not claimed during the 365-day period described under that paragraph, the trustee shall mail, by certified mail, at the end of such 365-day period described in paragraph (1), to each appropriate Federal agency to request permission from that agency to deposit the patient records with that agency, except that no Federal agency is required to accept patient records under this paragraph.

(3) If, following the 365-day period described in paragraph (2) and after providing the notification under paragraph (1), patient records are not claimed by a patient or insurance provider, or request is not granted by a Federal agency to deposit such records with that agency, the trustee shall destroy those records by—

‘‘(A) if the records are written, shredding or burning the records; or

‘‘(B) by magnetic, optical, or other electronic records, by otherwise destroying those records so that those records cannot be recovered.

(b) Clerical Amendment.—The table of sections for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 350 the following:

‘‘351. Disposal of patient records.’

SEC. 1103. ADMINISTRATIVE EXPENSE CLAIM FOR COSTS OF CLOSING A HEALTH CARE BUSINESS AND OTHER ADMINISTRATIVE EXPENSES.

Section 503(b) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

‘‘(8) the actual, necessary costs and expenses of closing a health care business incurred by a trustee or by a Federal agency (as that term is defined in section 561(1) of title 5) or a department or agency of a State or political subdivision thereof, including any court expenses incurred—

‘‘(A) in disposing of patient records in accordance with section 351; or

‘‘(B) in connection with transferring patients from a health care business that is in the process of being closed to another health care business;

‘‘(C) with respect to a nonresidential real property lease previously assumed under section 365, and subsequently rejected, a sum equal to all monetary obligations due, excluding those arising from or related to a failure to comply with any prepetition provisions, for the period of 2 years following the later of the rejection date or date of actual turnover of the premises, without reduction or setoff for any claim, and whether however except for sums actually received or to be received from a nondebtor, and the claim for remaining sums due for the balance of the term of the lease shall be a claim under section 502(b)(6); and

SEC. 1104. APPOINTMENT OF OMBUDSMAN TO ACT AS PATIENT ADVOCATE.

(a) In General.—

(1) Appointment of Ombudsman.—Subchapter II of chapter 3 of title 11, United States Code, is amended by inserting after section 331 the following:

‘‘332. Appointment of ombudsman

‘‘(a) In General.—Section 330(a)(1) of title 11, United States Code, is amended—

‘‘(1) in the matter preceding subparagraph (A), by inserting ‘‘an ombudsman appointed under section 331, or’’ before ‘‘a professional person’’; and

‘‘(2) in subparagraph (A), by inserting ‘‘ombudsman, below defined’’.

(b) Compensation of Ombudsman.—Section 330(a)(1) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

‘‘(11) use all reasonable and best efforts to transfer patients from a health care business that is in the process of being closed to an appropriate health care business that—

‘‘(B) provides the patient with services that are substantially similar to those provided by the health care business that is closing;

‘‘(C) maintains a reasonable quality of care.

(c) Conforming Amendment.—Section 1106(a)(1) of title 11, United States Code, is amended by striking ‘‘sections 704(2), 704(5), 704(7), 704(8), and 704(9)’’ and inserting ‘‘paragraphs (2), (5), (7), (8), and (11) of section 704(a)’’.

SEC. 1106. EXCLUSION FROM PROGRAM PARTICIPATION NOT SUBJECT TO AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (27), as added by this Act, the following:

‘‘(28) under subsection (a), of the exclusion by the Secretary of Health and Human Services of the debtor from participation in the medicare program or the medicaid program, or other Federal health care program (as defined in section 1128B(i) of the Social Security Act (42 U.S.C. 1395s(b))) pursuant to title XI of such Act (42 U.S.C. 1395 et seq.) and title XVIII of such Act (42 U.S.C. 1395 et seq.).’’

TITLE XII—TECHNICAL AMENDMENTS

SEC. 1201. DEFINITIONS.

Section 101 of title 11, United States Code, as amended by this Act, is amended—

(1) by striking ‘‘In this title’’ and inserting ‘‘In this title, the following definitions shall apply:’’;

(2) in each paragraph, by inserting ‘‘The term’’ after the paragraph designation;

(3) in paragraph (35)(B), by striking ‘‘paragraphs (21B) and (33)(A)’’ and inserting ‘‘paragraphs (21B) and (33)(A)’’;

(4) in each of paragraphs (35A) and (38), by striking ‘‘;’’ and ‘‘;’’ and ‘‘and’’ and inserting ‘‘and’’;

(5) in paragraph (51B), by striking ‘‘who is not a family farmer’’ and inserting ‘‘who is not a family farmer’’;

(6) by striking ‘‘therto having aggregate’’ and all that follows through the end of the paragraph.

SEC. 1202. ADJUSTMENT OF DOLLAR AMOUNTS.

Section 104 of title 11, United States Code, as amended by section 388 of this Act, is amended by inserting ‘‘522(f)(3),’’ after ‘‘522(f),’’ each place it appears.

SEC. 1203. EXTENSION OF TIME.

Section 108(c)(2) of title 11, United States Code, is amended by striking ‘‘922’’ and all that follows through ‘‘or’’, and inserting ‘‘922, 1201, or’’.

SEC. 1204. TECHNICAL AMENDMENTS.

Title 11, United States Code, is amended—
(1) in section 109(h)(2), by striking “subsection (c) or (d) of”; and
(2) in section 552(b)(1), by striking “product” each place it appears and inserting “property”.

SEC. 1205. PENALTY FOR PERSONS WHO NEG- LIGENTLY OR FRAUDULENTLY PRE- PARE BANKRUPTCY PETITIONS.

Section 110(k)(4) of title 11, United States Code, as so designated by this Act, is amended by striking “attorneys” and inserting “attorneys’ fees.”

SEC. 1206. LIMITATION ON COMPENSATION OF PROFESSIONAL PERSONS.

Section 522(a) of title 11, United States Code, as amended by this Act, is amended by inserting “on a fixed or percentage fee basis,” after “hourly basis,”.

SEC. 1207. EFFECT OF CONVERSION.

Section 348(d)(2) of title 11, United States Code, is amended by inserting “of the estate” after “property” the first place it appears.

SEC. 1208. ALLOWANCE OF ADMINISTRATIVE EX- PENSES.

Section 503(b)(4) of title 11, United States Code, is amended by inserting “a program operated under”.

SEC. 1209. EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, as amended by this Act, is amended—

1) by transferring paragraph (15), as added by section 1515 of title 11, United States Code (109 Stat. 4133), so as to insert such paragraph after subsection (a)(14);
2) in subsection (a)(9), by striking “motor vehicle” and inserting “motor vehicle, vessel, or aircraft”; and
3) in subsection (e), by striking “an insured” and inserting “an insured’s”.

SEC. 1210. EFFECT OF DISCHARGE.

Section 524(a)(3) of title 11, United States Code, is amended by striking “section 523” and all that follows through “or that” and inserting “section 525, 1228(a)(1), or 1328(a)(1), or that”.

SEC. 1211. PROTECTION AGAINST DISCRIMI- NATORY TREATMENT.

Section 525(c) of title 11, United States Code, is amended—

1) in paragraph (1), by inserting “student” before “grant” the second place it appears; and
2) in paragraph (2), by striking “the program operated under part B, D, or E of” and inserting “a program operated under part B, D, or E of”.

SEC. 1212. PROPERTY OF THE ESTATE.

Section 348(f)(2) of title 11, United States Code, is amended by striking “on a fixed or percentage fee basis,” after “hourly basis,”.

SEC. 1213. PREFERENCES.

Section 533 of title 11, United States Code, as amended by this Act, is amended—

1) in accordance with applicable non- bankruptcy law that governs the transfer of property by a corporation or trust that is not a business, business, or commercial corpo- ration or trust; and
2) to the extent not inconsistent with any relief granted under subsection (c), (d), (e), or (f) of section 547,

SEC. 1214. ALLOWANCE OF ADMINISTRATIVE EXPENSES.

Section 503(b)(4) of title 11, United States Code, is amended by inserting “a program operated under”.

SEC. 1215. DISPOSITION OF PROPERTY OF THE ESTATE.

Section 363(d) of title 11, United States Code, is amended by striking “1005.”.

SEC. 1216. GENERAL PROVISIONS.

Section 901(a) of title 11, United States Code, as amended by this Act, is amended by inserting “1228(a)”.

SEC. 1217. ABANDONMENT OF RAILROAD LINE.

Section 552(b)(1) of title 11, United States Code, is amended by striking “section 11347” and inserting “section 11347(b)”.

SEC. 1218. CODE.

Section 1172(c)(1) of title 11, United States Code, is amended by striking “section 11347” and inserting “section 11347(b)”.

SEC. 1219. BANKRUPTCY CASES AND PRO- CEDURES.

Section 1334(d) of title 28, United States Code, is amended—

1) by striking “made under this subsection” and inserting “made under subsection (c)” and
2) by striking “This subsection” and inserting “Subsections (c) and (d) of this subsection”.

SEC. 1220. KNOWING DISREGARD OF BANKRUPTCY LAW OR RULE.

Section 156(a) of title 18, United States Code, is amended—

1) in the first undesignated paragraph—
(A) by inserting “the term before” the word “bankruptcy”;
(B) by striking the period at the end and inserting “;”;
and
(2) in the second undesignated paragraph—
(A) by inserting “the term before” the word “document”;
and
(B) by striking “this title” and inserting “title 11”.

SEC. 1221. TRANSFERS MADE BY NONPROFIT CHARITABLE CORPORATIONS.

(a) SALE TO NONPROFIT CHARITABLE CORPORATIONS.—Section 363(d) of title 11, United States Code, is amended by striking “only” and all that follows through the end of the subsection and inserting—

(1) in accordance with applicable non- bankruptcy law that governs the transfer of property by a corporation or trust that is not a business, business, or commercial corpo- ration or trust; and
(2) to the extent not inconsistent with any relief granted under subsection (c), (d), (e), or (f) of section 547,
(b) CONFIRMATION OF PLAN FOR REORGANIZATION.—Section 1129(a) of title 11, United States Code, as amended by this Act, is amended by striking “made under paragraph (1) or” and inserting “made under this subsection”.

SEC. 1222. BANKRUPTCY JUDGESHIPS.

(a) SHORT TITLE.—This section may be cited as the “Bankruptcy Judgeship Act of 2001”.

(b) TEMPORARY JUDGESHIPS.—

1) APPOINTMENTS.—In the following judge- ship positions shall be filled in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges performed for in section 152(a)(2) of such title:
(A) One additional bankruptcy judgeship for the eastern district of California.
(B) Four additional bankruptcy judgeships for the central district of California.
(C) One additional bankruptcy judgeship for the 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) Three 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 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.
(S) One additional bankruptcy judgeship for the district of South Carolina.
(T) One additional bankruptcy judgeship for the district of Nevada, and one for the district of Delaware.
2) VACANCIES.—The first vacancy occur- ring after the date of enactment of this Act, in the office of a bankruptcy judge in each of the judicial districts set forth in paragraph (1) shall not be filled if the vac- ancy results from the death, retirement, resignation, or removal of a bankruptcy judge; and
3) EXTENSIONS.—
(B) occurs 5 years or more after the ap- pointment date of a bankruptcy judge ap- pointed under paragraph (1).
SEC. 1225. AMENDMENT TO SECTION 362 OF TITLE 11, UNITED STATES CODE.

Section 362(b)(18) of title 11, United States Code, is amended—

(1) to add at the end the following:

``(18) subsection (a) of the creation or perfection of a statutory lien for an ad valorem property tax, or a special tax or special assessment whatsover, and not ad valorem, imposed by a governmental unit, if such tax or assessment comes due after the filing of the petition.''

SEC. 1226. JUDICIAL EDUCATION.

The Director of the Federal Judicial Center, in consultation with the Director of the Executive Office for United States Trustees, shall develop, implement, and conduct such training as may be useful to courts in implementing this Act and the amendments made by this Act, including the requirements relating to the means tests and reaffirmations under section 707(b) of title 11, United States Code, as amended by this Act.

SEC. 1227. REClAMATION.

(a) RIGHTS AND POWERS OF THE TRUSTEE.—Section 546(c) of title 11, United States Code, is amended to read as follows:

``(c)(1) Except as provided in subsection (d) of this section, if the property to which the right referred to in subsection (b) of section 507, and subject to the prior rights of holders of security interests in such goods or the proceeds thereof, the rights and powers of the trustee under section 544, paragraphs (4), (5), and (6) of section 547, and paragraphs (3) and (4) of section 549 are subject to the right of a seller of goods that has sold goods to the debtor, in the ordinary course of such seller’s business, to reclaim such goods and such debtor has received such goods while insolvent, not later than 45 days prior to the date of commencement of a case under this title, but such goods may not be sold by such seller less such seller demands in writing reclamation of such goods—

``(A) not later than 60 days after 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 the commencement of the case.

``(2) If a seller of goods fails to provide notice in the manner described in paragraph (1), the seller still may assert the rights contained in section 505(b)(7).''.

(b) ADMINISTRATIVE EXPENSES.—Section 506(b) of title 11, United States Code, as amended by the amendments made by the amendments added by adding at the end the following:

``(10) the value of any goods received by the debtor not later than 20 days prior to the date of commencement of such case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor’s business;''

SEC. 1228. PROVIDING REQUESTED TAX DOCUMENTS TO THE COURT.

(a) CHAPTER 7 CASES.—The court shall not grant a discharge in the case of an individual debtor under chapter 7 of title 11, United States Code, unless requested tax documents have been provided to the court.

(b) CLAIMS AND OTHER PROCEEDINGS UNDER CHAPTER 11.—A bankruptcy under chapter 11 of title 11, United States Code, unless requested tax documents have been provided to the court.

(c) DOCUMENT RETENTION.—The court shall destroy documents submitted in support of a tax or other claim or in support of an objection or motion under section 502(b)(5) of title 11, United States Code, if the court finds that the documents are no longer relevant to the case.

SEC. 1229. ENCOURAGING CREDITORWORTHINESS.

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

(1) certain lenders may sometimes offer credit to consumers indiscriminately, without taking steps to ensure that consumers are capable of repaying the resulting debt, and

(2) resulting consumer debt may increase as the major contributing factor to consumer insolvency.

(b) STUDY REQUIRED.—The Board of Governors of the Federal Reserve System (herein referred to as the “Board”) shall conduct a study of—

(1) consumer credit industry practices of soliciting and extending credit,

(2) the effects of such practices on consumer debt and insolvency,

(3) the extent to which such practices result in additional disclosures to consumers; and

(4) the effectiveness of such practices in preventing resulting consumer debt and insolvency.

SEC. 1230. PROVIDING NO LONGER SUBJECT TO ANY BANKRUPTCY REMEDIES.

Section 541(b) of title 11, United States Code, is amended by inserting after paragraph (b), as added by this Act, the following:

``(2) the effects of such practices on consumer debt and insolvency.

(c) REPORT AND REGULATIONS.—Not later than 12 months after the date of enactment of this Act, the Board—

(1) shall make public a report on its findings with respect to the indiscriminate solicitation and extension of credit by the credit industry;

(2) may issue regulations that would require additional disclosures to consumers; and

(3) may take any other actions, consistent with its existing statutory authority, that the Board finds necessary to ensure responsible industry-wide practices and to prevent resulting consumer debt and insolvency.

SEC. 1231. TRUSTEES.

(a) SUSPENSION AND TERMINATION OF PANEL TRUSTEES AND STANDING TRUSTEES.—Section 586(d) of title 28, United States Code, is amended—

(1) by inserting “I” after “I”;

(2) by adding at the end the following:

``(2) A trustee whose appointment under subsection (a)(1) or under subsection (b) is terminated or who ceases to be assigned to cases filed under title 11, United States Code, may obtain judicial review of the final agency decision by commencing an action in the United States district court for the district for which the panel to which the trustee is appointed under subsection (a)(1), or in the United States district court for the district in which the trustee is appointed under subsection (b), after exhausting all available administrative remedies, which if the trustee so elects, shall also include an administrative hearing on the record. Unless the party elects to have an administrative hearing on the record, the trustee shall be deemed to have exhausted all administrative
remedies for purposes of this paragraph if the agency fails to make a final agency decision within 90 days after the trustee requests administrative remedies. The Attorney General is authorized to promulgate regulations to implement this paragraph. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based upon the administrative record before the agency.”.

(b) EXPENSES OF STANDING TRUSTEES.—Section 586(e) of title 28, United States Code, is amended by adding at the end the following:

“(3) After first exhausting all available administrative remedies, an individual appealing from a bankruptcy court order may obtain judicial review of final agency action to deny a claim of actual, necessary expenses under this subsection by commencing an action in the district court in the judicial district where the individual resides. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based upon the administrative record before the agency.”.

“(4) The Attorney General shall prescribe procedures to implement this subsection.”.

SEC. 1231. EXPEDITED APPEALS OF BANKRUPTCY CASES TO COURTS OF APPEALS.

Section 2075 of title 28, United States Code, is amended by adding at the end the following:

“(a) APPEAL.—Section 158(d) of title 28, United States Code, is amended—

(1) in subsection (c)(1), by striking “Subject to subsection (b),” and inserting “Subject to subsection (b)(1), (d)(1), and (d)(2),”;

(2) in subsection (d)—

(A) by inserting “(1)” after “(d);” and

(B) by adding at the end the following:

“(2) A court of appeals that would have jurisdiction of a subsequent appeal under paragraph (1) or other law may authorize an immediate appeal of an order or decree, not otherwise appealable, that is entered in a case or proceeding pending under section 157 or is entered by the district court or bankruptcy appellate panel exercising jurisdiction under section (a) or subsection (d)(2) of section 158 of title 28, United States Code.

(b) PROCEDURAL RULES.—

(1) TEMPORARY APPLICATION.—A provision of this subsection shall apply to appeals under section 158(d)(2) of title 28, United States Code, as added by subsection (a) of this section, until a rule of practice and procedure relating to such provision and appeal is promulgated or amended under chapter 131 of such title.

(2) CERTIFICATION.—A district court, bankruptcy court, or bankruptcy appellate panel may enter a certification as described in section 158(d)(2) of title 28, United States Code, during proceedings pending before that court or panel.

(3) PROCEDURE.—Subject to the other provisions of this subsection, an appeal by permission under section 158(d)(2) of title 28, United States Code, shall be taken in the manner prescribed in rule 5 of the Federal Rules of Appellate Procedure.

(4) PRIORITY.—A priority for permission to appeal is requested on the basis of a certification of the parties, a district court, bankruptcy court, or bankruptcy appellate panel, the petition within 10 days after the certification is entered or filed.

(5) ATTACHMENT.—When permission to appeal is requested on the basis of a certification of the parties, a district court, bankruptcy court, or bankruptcy appellate panel, a copy of the certification shall be attached to the petition.

(6) PANEL AND CLERK.—In a case pending before a bankruptcy appellate panel in which permission to appeal is requested, the terms “district court” and “district clerk”, as used in rule 5 of the Federal Rules of Appellate Procedure, mean “bankruptcy appellate panel” and “clerk of the bankruptcy appellate panel”, respectively.

(7) APPLICABLE RULES.—In a case pending before a district court, bankruptcy court, or bankruptcy appellate panel in which a court of appeals grants permission to appeal, the Federal Rules of Appellate Procedure apply to the proceedings in the court of appeals, to the extent relevant, as if the appeal were taken from a final judgment, order, or decree of a bankruptcy court, district court, bankruptcy appellate panel exercising jurisdiction under subsection (a) or subsection (d)(2) of section 158 of title 28, United States Code.

SEC. 1232. EXEMPTIONS.

Section 522(g)(2) of title 11, United States Code, is amended by striking “subsection (f)(1)” and inserting “subsection (f)(1)(B)”.

SEC. 1233. INVOLUNTARY CASES.

Section 303 of title 11, United States Code, is amended—

(1) in subsection (b)(1), by—

(A) inserting “as to liability or amount” after “bona fide dispute”; and

(B) striking “if such claims” and inserting “‘if such undisputed claims’”;

(2) in subsection (b)(1), by inserting before the semicolon the following: “as to liability or amount”.

SEC. 1236. FEDERAL ELECTION LAW FINES AND PENALTIES AS NONDISCHARGEABLE DEBT.

Section 523(a) of title 11, United States Code, is amended by inserting after paragraph (14A) (as added by this Act) the following:

“(14B) incurred to pay fines or penalties imposed under Federal election law;”.

SEC. 1237. NO BANKRUPTCY FOR INSOLVENT POLITICAL COMMITTEES.

Section 105 of title 11, United States Code, is amended by adding at the end the following:

“(o) A political committee subject to the jurisdiction of the Federal Election Commission under Federal election laws may not file for bankruptcy under this title.”.

TITLE XIII—CONSUMER CREDIT DISCLOSURE

SEC. 1301. ENHANCED DISCLOSURES UNDER AN OPEN END CREDIT PLAN.

(a) MINIMUM PAYMENT DISCLOSURES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1607b) is amended by adding at the end the following:

“(11) In the case of an open end credit plan that requires a minimum monthly payment of less than 1% of the balance on which finance charges are accruing, the following statement, located on the front of the billing statement, disclosed clearly and conspicuously: ‘‘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 you 24 months to repay your balance. For an estimate of the time it would take to repay your balance, making only minimum payments, call this toll-free number:’ (the blank space to be filled in by the creditor).

“(B) In the case of a open end credit plan that requires a minimum monthly payment of more than 4% of the balance on which finance charges are accruing, the following statement, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously: ‘‘Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. Making 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. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call the Federal Trade Commission at this toll-free number:’ (the blank space to be filled in by the creditor).

“(C) Notwithstanding subparagraphs (A) and (B), in the case of a creditor with respect to whom compliance is enforced by the Federal Election Trade Commission, the following statement, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously: ‘‘Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, making only the typical 5% minimum monthly payment on a balance of $300 at an interest rate of 17% would take 24 months to repay your balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call the Federal Trade Commission at this toll-free number:’ (the blank space to be filled in by the creditor). A creditor who is subject to this subparagraph shall not be subject to subparagraph (A) or (B).

“(D) Notwithstanding subparagraphs (A), (B), or (C), in complying with any such subparagraph, a creditor may substitute an exemption based on an interest rate that is greater than 17 percent. Any creditor that is subject to subparagraph (B) may elect to substitute the disclosure required under subparagraph (A) in lieu of the disclosure required under subparagraph (B).

“(E) The Board shall, by rule, periodically review, as necessary, the interest rate and repayment period under subparagraphs (A), (B), and (C).

“(F) The toll-free telephone number disclosed by a creditor under subsection (A), (B), or (G), as appropriate, may be a toll-free telephone number established and maintained by the Board or the Federal Trade Commission, as appropriate, or may be a toll-free telephone number established and maintained by a third party for use by the creditor or multiple creditors or the Federal Trade Commission, as appropriate. The toll-free telephone number may connect consumers to an automated device through which consumers may obtain information described in subparagraph (A), (B), or (C), by inputting information using a touch-tone telephone or similar device, if consumers using such automated device are provided the opportunity to be connected to an individual from whom the information described in subparagraph (A), (B), or (C) may be obtained. A person that receives a request for information described in subparagraph
(A), (B), or (C) from an obligor through the toll-free telephone number disclosed under subparagraph (A), (B), or (C), as applicable, shall disclose in response to such request only the information set forth in the table promulgated by the Board under subparagraph (H)(i).

"(ii)(I) The Board shall establish and maintain a toll-free telephone number, or provide a toll-free telephone number and maintain it, for the benefit of a third party, for use by creditors that are depository institutions (as defined in section 3 of the Federal Deposit Insurance Act), including a Federal credit union or State credit union (as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752)), with total assets not exceeding $250,000,000. The toll-free telephone number may connect consumers to an automated device through which consumers may obtain information described in subparagraph (A) or (B), as applicable, by inputting information using a touch-tone telephone or similar device, if consumers whose telephones are not equipped to use such automated device are provided the opportunity to be connected to an individual from whom the information described in subparagraph (A) or (B), as applicable, is obtained. A person that receives a request for information described in subparagraph (A) or (B) from an obligor through the toll-free telephone number disclosed under subparagraph (A) or (B), as applicable, shall disclose in response to such request only the information set forth in the table promulgated by the Board under subparagraph (H)(i). The dollar amount contained in this subclause shall be adjusted according to an indexing mechanism established by the Board.

"(II) Not later than 6 months prior to the expiration of the 24-month period referred to in subclause (I), the Board shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the program described in subclause (I).

"(G) The Federal Trade Commission shall establish and maintain a toll-free number for the purpose of providing to consumers the information required to be disclosed under subparagraph (C).

"(H) The Board shall—

"(i) establish a table illustrating the approximate number of months that it would take to repay an outstanding balance if a consumer pays only the required minimum payment under open end credit plans; and if no other advances are made, which table shall clearly present standardized information to be used to disclose the information required to be disclosed under subparagraph (A), (B), or (C), as applicable;

"(ii) establish the table required under clause (i) by assuming—

"(I) a significant number of different annual percentage rates;

"(II) a significant number of different account balances;

"(III) a significant number of different minimum payment amounts; and

"(IV) that only minimum monthly payments are made and no additional extensions of credit are obtained, under subparagraph (A), (B), or (C).

"(III) promulgate regulations that provide instructional guidance regarding the manner in which the information contained in the table promulgated under clause (i) shall be used in responding to the request of an obligor for any information required to be disclosed under subparagraph (A), (B), or (C).

"(IV) requirements of this paragraph do not apply to any charge card account, the primary purpose of which is to require payment of charges in full each month.

"(J) A creditor that maintains a toll-free telephone number for the purpose of providing to consumers the annual number of months that it will take to repay the customer’s outstanding balance is not subject to the requirements of subparagraph (A) or (B). (K) A creditor that maintains a toll-free telephone number for the purpose of providing customers with the actual number of months that it will take to repay an outstanding balance shall include the following statement on each billing statement: ‘‘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 blank space to be filled in by the creditor)."

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board of Governors of the Federal Reserve System (hereinafter in this title referred to as the ‘‘Board’’) shall promulgate regulations implementing the requirements of section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section.

(2) EFFECTIVE DATE.—Section 127(b)(11) of the Truth in Lending Act (15 U.S.C. 1607f(b)(11)) is amended—

(A) by striking ‘‘If any’’ and inserting the following:

"(1) IN GENERAL.—If any’’;

(B) by adding at the end the following:

"(2) FACTORS FOR CONSIDERATION.—In conducting a study under paragraph (1), the Board should, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration, and the Federal Trade Commission, consider the extent to which—

"(A) consumers, in establishing new credit arrangements, are aware of their existing payment obligations, the need to consider those obligations when taking on new credit, and how taking on excessive credit can result in financial difficulty;

"(B) minimum periodic payment features offered in open end credit plans impact consumer default rates;

"(C) consumers make only the required minimum payment under open end credit plans; and

"(D) consumers are aware that making only required minimum payments will increase the cost and repayment period of an open end credit obligation; and

"(E) the availability of low minimum payment options is a cause of consumers experiencing financial difficulty.

(3) REPORT TO CONGRESS.—Findings of the Board in connection with any study conducted under this subsection shall be submitted to Congress. Such report shall also include recommendations for legislative initiatives, if any, of the Board, based on its findings.

SEC. 1302. ENHANCED DISCLOSURE FOR CREDIT EXTENSIONS SECURED BY A DWELLING.

(a) OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 127A(a)(3) of the Truth in Lending Act (15 U.S.C. 1607f(a)(3)) is amended—

(A) by striking ‘‘CONSULTATION OF TAX ADVISER.—A statement that the’’ and inserting the following: ‘‘TAX DEDUCTIBILITY.—A statement that’’;

(1) the 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; and

(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.’’;

(2) CREDIT ADVERTISEMENTS.—Section 128 of the Truth in Lending Act (15 U.S.C. 166d) is amended—

(A) in subsection (a), by adding at the end the following:

"(3) In the case of a consumer credit transaction that is secured by the principal dwelling of a consumer in which the extension of credit may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall include a clear and conspicuous statement that—

"(A) the 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; and

(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.’’;

(b) NON-OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 128 of the Truth in Lending Act (15 U.S.C. 166d) is amended—

(A) in subsection (a), by adding at the end the following:

"(3) In the case of a consumer credit transaction described in paragraph (15) of subsection (a), disclosures required by that paragraph shall be made to the consumer at the time of application for such extension of credit.’’.

(2) CREDIT ADVERTISEMENTS.—Section 124 of the Truth in Lending Act (15 U.S.C. 166d) is amended by adding at the end the following:

"(e) Each advertisement to which this section applies that relates to a consumer credit transaction that is secured by the principal dwelling of a consumer in which the extension of credit may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall clearly and conspicuously state that—

"(1) the 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; and

(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.’’.

(c) REGULATORY IMPLEMENTATION.—
SEC. 1303. DISCLOSURES RELATED TO "INTRODUCTORY RATES".

(a) Introductory Rate Disclosures.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

"(6) Additional Notice Concerning 'Introductory Rates'—

"(A) In General.—Except as provided in subparagraph (B) of paragraph (1), an application or solicitation to open a credit card account and all promotional materials accompanying such application or solicitation for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest, shall—

"(i) use the term 'introductory' in immediate proximity to each listing of the temporary annual percentage rate applicable to such account, which term shall appear clearly and conspicuously in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing of the temporary annual percentage rate in the tabular format described in section 122(c)), the time period in which the introductory period will end and the annual percentage rate that will apply after the end of the introductory period; and

"(ii) if the annual percentage rate that will apply after the end of the temporary rate period will be a fixed rate, state in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate that will apply after that, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation to open a credit card account.

"(B) Exception.—Clauses (i) and (iii) of subparagraph (A) do not apply with respect to any listing of a temporary annual percentage rate in the tabular format described in section 122(c), the time period in which the introductory period will end and the annual percentage rate that will apply after the end of the introductory period; and

"(iii) if the annual percentage rate that will apply after the end of the temporary rate period will vary in accordance with an index, state in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing in the tabular format prescribed by section 122(c)), the time period in which the introductory period will end and the annual percentage rate that will apply after that, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation to open a credit card account.

"(C) Conditions for Introductory Rates.—An application or solicitation to open a credit card account for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest that is revocable under any circumstance or upon any event, clearly and conspicuously disclose, in a prominent manner on or with such application or solicitation—

"(i) a general description of the circumstances that may result in the revocation of the temporary annual percentage rate; and

"(ii) if the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate.

"(D) Definition.—In this paragraph—

"(i) the term 'temporary annual percentage rate' mean any rate of interest applicable to a credit card account for an introductory period of less than 1 year, if that rate is less than an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation; and

"(ii) the term 'introductory period' means the maximum time period for which the temporary annual percentage rate may be applicable.

"(E) Relation to Other Disclosure Requirements.—Nothing in this paragraph may be construed to supplant or otherwise impair or impair the requirement under subparagraph (B) of paragraph (1) of this subsection to not take effect until the later of—

"(A) 12 months after the date of enactment of this Act; or

"(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1304. INTERNET-BASED CREDIT CARD APPLICATIONS AND SO-LICITATIONS.

(a) Internet-Based Applications and Solicitations.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

"(7) Internet-Based Applications and Solicitations.—

"(A) In General.—In any solicitation to open a credit card account for any person under an open end consumer credit plan using the Internet or other interactive computer service, the person making the solicitation shall clearly and conspicuously disclose—

"(i) the information described in subparagraphs (A) and (B) of paragraph (1); and

"(ii) the information described in paragraph (6).

"(B) Form of Disclosure.—The disclosures required by subparagraph (A) shall—

"(i) readily identify consumers in close proximity to the solicitation to open a credit card account; and

"(ii) be displayed regularly to reflect the current policies, terms, and fee amounts applicable to the credit card account.

"(C) Definitions.—For purposes of this paragraph—

"(i) the term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet switched data networks; and

"(ii) the term 'interactive computer service' means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.

"(D) Regulatory Implementation.—

"(1) In General.—The Board shall promulgate regulations implementing the requirements of section 127(b)(7) of the Truth in Lending Act, as added by this section.

"(2) Effective Date.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

"(A) 12 months after the date of enactment of this Act; or

"(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1305. DISCLOSURES RELATED TO LATE PAYMENTS AND PENALTIES.

(a) Disclosures Related to Late Payment Deadlines and Penalties.—Section 127(b)(12) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

"(12) If a late payment fee is to be imposed due to the failure of the obligor to make payment on or before a required payment due date, the following shall be stated clearly and conspicuously on the billing statement:

"(A) The date on which the payment is due or, if different, the earliest date on which a late payment fee may be charged.

"(B) The amount of the late payment fee to be imposed if payment is made after such date.

(b) Regulatory Implementation.—

"(1) In General.—The Board shall promulgate regulations implementing the requirements of section 127(b)(12) of the Truth in Lending Act, as added by this section.

"(2) Effective Date.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

"(A) 12 months after the date of enactment of this Act; or

"(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1306. PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.

(a) Prohibition on Certain Actions for Failure to Incur Finance Charges.—Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

"(7) Prohibition on Certain Actions for Failure to Incur Finance Charges.—A creditor of an account under an open end consumer credit plan may not terminate an account prior to its expiration date solely because the consumer has not incurred finance charges on the account. Nothing in this subsection shall prohibit a creditor from terminating an account for inactivity in 3 or more consecutive months.

(b) Regulatory Implementation.—

"(1) In General.—The Board shall promulgate regulations implementing the requirements of section 127(b)(7) of the Truth in Lending Act, as added by this section.

"(2) Effective Date.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

"(A) 12 months after the date of enactment of this Act; or

"(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1307. DUAL USE DEBIT CARD.

(a) Report.—The Board may conduct a study of, and present to Congress a report containing its analysis of, consumer protection under existing law to limit the liability of consumers for unauthorized use of a debit card or similar access device. Such report shall include recommendations for legislative initiatives, if any, of the Board, based on its findings.

(b) Considerations.—In preparing a report under subsection (a), the Board may include—

"(I) the extent to which section 909 of the Electronic Fund Transfer Act (15 U.S.C. 1693) is in effect at the time of the report, and the implementing regulations promulgated by the Board to carry out that section provide adequate unauthorized use liability protections for consumers and industry rules have enhanced or may enhance
the level of protection afforded consumers in connection with such unauthorized use liability; and
(3) whether amendments to the Electronic Fund Transfer Act (12 U.S.C. 1693 et seq.), or revisions to regulations promulgated by the Board to carry out that Act, are necessary to further address adequate protection for consumers concerning unauthorized use liability.

SEC. 1308. STUDY OF BANKRUPTCY IMPACT OF CREDIT EXTENDED TO DEPENDENT STUDENTS.
(a) STUDY.—
(1) IN GENERAL.—The Board shall conduct a study regarding the impact that the extension of credit described in paragraph (2) has on the rate of bankruptcy cases filed under title 11, United States Code.
(2) EXTENSION OF CREDIT.—The extension of credit described in this paragraph is the extension of credit to individuals who are—
(A) claimed as dependents for purposes of the Internal Revenue Code of 1986; and
(B) enrolled within 1 year of successfully completing all required secondary education requirements and on a full-time basis, in postsecondary educational institutions.
(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Board shall submit to the Senate and the House of Representatives a report summarizing the results of the study conducted under subsection (a).

SEC. 1309. CLARIFICATION OF CLEAR AND CONSPICUOUS.
(a) REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Board, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration Board, and the Federal Trade Commission, shall promulgate regulations to provide guidance regarding the meaning of the term “clear and conspicuous”, as used in subparagraphs (A), (B), and (C) of section 127(b)(1) and clauses (ii) and (iii) of section 127(c)(6)(A) of the Truth in Lending Act.
(b) EXAMPLES.—Regulations promulgated under subsection (a) shall include examples of clear and conspicuous model disclosures for the purposes of disclosures required by the provisions of the Truth in Lending Act referred to in subsection (a).
(c) PROMULGATION OF REGULATIONS.—In promulgating regulations under this section, the Board shall ensure that the clear and conspicuous standard required by the disclosures made under the provisions of the Truth in Lending Act referred to in subsection (a) can be implemented in a manner which results in disclosures which are reasonably understandable and designed to call attention to the nature and significance of the information in the notice.

TITLE XIV—EMERGENCY ENERGY ASSISTANCE AND CONSERVATION MEASURES

SEC. 1401. SHORT TITLE.
This title may be cited as the “Energy Emergency Response Act of 2001”.

SEC. 1402. FINDINGS AND PURPOSES.
(a) FINDINGS.—The Congress finds that—
(1) Balanced energy costs are causing hardship for families;
(2) Restructured energy markets have increased the need for a higher and more consistent level of funding for low-income energy assistance programs;
(3) Conservation programs implemented by the States and the low-income weatherization programs and other related costs and for additional energy supplies;
(4) Energy conservation is a cornerstone of national energy security policy;
(5) The Federal Government is the largest consumer of energy in the economy of the United States; and
(6) Many opportunities exist for significant energy cost savings within the Federal Government.
(b) PURPOSES.—The purposes of this title are to preserve economic and financial stability for individuals most affected by high energy prices and to promote and accelerate energy conservation investments in private and Federal facilities.

SEC. 1403. INCREASED FUNDING FOR LIHEAP, WEATHERIZATION AND STATE ENERGY GRANTS.
(a) LIHEAP.—Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended by striking the first sentence and inserting the following: “Notwithstanding paragraph (2), the Board is appropriated to carry out the provisions of this title (other than section 2607A), $3,400,000,000 for each of fiscal years 2001 through 2005.’’. (b) ENERGY SAVINGS AND CONSERVATION POLICY ACT.—Section 804(3) of the Energy Conservation and Production Act (42 U.S.C. 8287c(3)) is amended to read as follows:
“(3) The term ‘energy savings contract’ and ‘energy savings performance contract’ mean a contract which provides for—
(A) the performance of services for the design, installation, testing, operation, and, where appropriate, maintenance, repair, or other related activities, of a defined system or component of a building or other facilities; or
(B) a water conservation measure that improves the efficiency of water use, is life cycle cost effective, and involves water conservation, water recycling or reuse, improvements in operation or maintenance efficiencies, retrofit activities or other related activities, not affecting the power generating operations at a federally owned hydroelectric dam.’’.

SEC. 1404. FEDERAL ENERGY MANAGEMENT REVIEWS.
Section 543 of the National Energy Conservation Policy Act of 1982 (42 U.S.C. 8253) is amended by adding at the end the following:
“(c) PRIORITY RESPONSE REVIEWS.—Each agency shall—
(1) not later than October 1, 2001, undertake a comprehensive review of all practicable measures for—
(A) increasing energy and water conservation; and
(B) using renewable energy sources; and
(2) not later than 180 days after completing the review, implement measures to achieve at least 50 percent of the potential efficiency and renewable savings identified in the review.’’.

SEC. 1405. COST SAVINGS FROM REPLACEMENT FACILITIES.
Section 801(a) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(a)) is amended by adding at the end the following:
“(d)(A) in the case of an energy savings contract or energy savings performance contract providing for energy savings through the construction, operation, and use of one or more buildings or facilities to replace one or more existing buildings or facilities, benefits ancillary to the purpose of such contract under paragraph (1) may include savings resulting from reduced costs of operation and maintenance at such replacement buildings or facilities when compared with costs of operation and maintenance at the buildings or facilities being replaced.
“(B) Notwithstanding paragraph (2)(B), aggregate annual payments by an agency under an energy savings contract or energy savings performance contract referred to in subparagraph (A) may take into account (through the procedures developed pursuant to this section) the least of reduced costs of operation and maintenance as described in subparagraph (A)’.’’.

SEC. 1406. REPEAL OF ENERGY SAVINGS PERFORMANCE CONTRACT SUNSET.
Section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(1)) is repealed.

SEC. 1407. ENERGY SAVINGS PERFORMANCE CONTRACT DEFINITIONS.
(a) ENERGY SAVINGS.—Section 804(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)) is amended to read as follows:
“(2) The term ‘energy savings contract’ or ‘energy savings performance contract’ means—
(A) an existing federally owned building or buildings or other federally owned facilities as a result of—
(i) the lease or purchase of operating equipment, improvements, alterned operation and maintenance, or technical services;
(ii) more efficient use of existing energy sources to cogeneration or other recovery, excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities; or
(iii) more efficient use of water at an existing federally owned building or buildings, in either interior or exterior applications; or
(B) a replacement facility under section 804(2).”.
(b) ENERGY SAVINGS CONTRACT.—Section 804(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(3)) is amended to read as follows:
“(3) The terms ‘energy savings contract’ and ‘energy savings performance contract’ mean a contract which provides for—
(A) the performance of services for the design, installation, testing, operation, and, where appropriate, maintenance and repair, of an identified energy, water conservation, or wastewater treatment measure at a series of measures at one or more locations; or
(B) energy savings through the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities.’’.
(c) ENERGY OR WATER CONSERVATION MEASURE.—Section 804(4) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(4)) is amended to read as follows:
“(4) The term ‘energy or water conservation measure’ means—
(A) an energy conservation measure, as defined in section 804(3) of the Energy Conservation and Production Act (42 U.S.C. 8287c(3)); and
(B) a water conservation measure that improves the efficiency of water use, is life cycle cost effective, and involves water conservation, water recycling or reuse, improvements in operation or maintenance efficiencies, retrofit activities or other related activities, not affecting the power generating operations at a federally owned hydroelectric dam.’’.

SEC. 1408. EFFECTIVE DATE.
This title and the amendments made by this title shall take effect upon the date of enactment of this title.

TITLE XV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

SEC. 1501. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.
(a) EFFECTIVE DATE.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall be in effect 180 days after the date of enactment of this Act.
(b) APPLICATION OF AMENDMENTS.—Except as otherwise provided in this Act, the amendments made by this Act shall not apply with respect to cases commenced under title 11, United States Code, before the effective date of this Act.
Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m. on Tuesday, March 20. I further ask unanimous consent that on Tuesday, immediately following the prayer, the Journal of proceedings be approved to date, the time for the two leaders be reserved for the two hours later in the day, and the Senate then resume consideration of S. 27, the campaign finance reform bill.

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

Mr. MCCONNELL. I further ask unanimous consent that the Senate stand in recess from the hours of 12:30 p.m. until 2:15 p.m. for the weekly policy conferences to meet.

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

PROGRAM

Mr. MCCONNELL. Mr. President, for the information of all Senators, the Senate will begin consideration of another amendment to the campaign finance reform bill, and the time for the two leaders be reserved for the two hours later in the day, and the Senate then resume consideration of S. 27, the campaign finance reform bill.

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

ORDER FOR ADJOURNMENT

Mr. MCCONNELL. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order following the remarks of Senator LIEBERMAN.

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

Therefore, Senators may expect votes in relation to amendments, to petition the Government for a redress of grievances.

Will we uphold the ideal of our democracy so that the passion and force with which people articulate their views and the votes that they cast on election day are the means through which they influence our Government's direction, or do we want a system where the size of a person's wallet or the depth of an interest group's bank account count more than a person's views or votes?

I do not believe that anyone in this body would embrace the latter vision of our Republic. But that is precisely, I believe, what our Government is heading toward. I do not believe that anyone in this body would embrace the latter vision of our Republic. But that is precisely, I believe, what our Government is heading toward.

For that amount, the party's web site tells us, donors get into a club whose agenda is simple—bringing the best of our party's supporters together with our congressional leadership for a continuing, collegial dialogue on current policy issues.
March 19, 2001

CONGRESSIONAL RECORD — SENATE S2531

it nearly doubled what they raised during the last cycle.

When compared to election cycles further back, the numbers become all the more jolting. The 1996 soft money record that was blown away by this cycle’s $392 million was itself 242 percent higher than the 1992 soft money fundraising in the case of Democrats and in the case of Republicans 178 percent higher. The roughly $262 million in party soft money raised in 1992, itself, dwarfed the approximately $19 million raised in 1980. And the roughly $15.3 million raised in 1984. The roughly $15.3 million raised in the 1984 cycle was also dwarfed by those numbers.

The bottom line is that since soft money, and the loophole that allowed it into our political system, entered the system some 20 years ago, it has grown exponentially in each cycle, from barely $20 million in total in 1980 to nearly $500 million—a half a billion dollars—last year. And it is difficult to see any end in sight to this exponential growth in soft money fund-raising, except S. 27, the McCain-Feingold campaign finance reform proposal.

Is it any wonder, with these numbers, that the American people—they who are supposed to be the true source of our authority—have been so turned off by politics that many of them no longer trust our Government or even bother to vote?

This must end or our noble journey in self-government will veer further and further from its principled course. When the price of entry to our democracy’s discussions starts to approach the average American’s annual salary, something is terribly wrong. When we have a two-tiered system of access and influence—one for the average voter and one for the big contributor—something is terribly wrong. And when the big contributor’s ticket is for a front-row seat, while the voter’s is for standing room only, something is most definitely terribly wrong.

Our opponents will continue, I understand, to see the situation differently. Money, they tell us, is just speech in another form. And the outlandish increases we have seen in political giving, they say, are actually signs of the vibrancy of our marketplace of ideas. It is a market place all right, but what is for sale is most certainly not ideas, and what is threatened most certainly is not free speech.

Free speech is a principle we all hold dear. But free speech is about the inalienable right every American has to express his or her views without Government interference. It is about the vision the framers of our Constitution enshrined in that great document, a vision that ensures both we in Congress and those outside—every citizen—will never be forced to compromise our American birth right to offer opinions, even and particularly when those are unpopular or discomfiting to those in power.

That simply is not at issue in this debate, not at issue as a result of the McCain-Feingold proposal. Absolutely nothing in this bill will do anything to diminish or threaten any American’s right to express his or her views about candidates running for office or about any problem or any issue in American life. Indeed, if more money in the system were a sign of more Americans speaking up and more Americans being better informed, then we would have significantly more vibrant elections, dramatically more informative campaigns, increasingly larger voter turnout, and better and better public debates. But before soft money exploded onto the scene, I challenge anyone in this body or outside to say that is the case. It most certainly is not. To the contrary, this campaign finance reform proposal would actually enhance our country’s free speech rights. Under the current system, the voice of monied interests drowns out the voice of average Americans, often preventing them from being truly heard in our public policy debate. This so-called speech in kind, it is this bill, the McCain-Feingold bill, that will restore Americans’ true ability to exercise their right of free speech without limit and with full effect.

In short, Mr. President, what would be threatened by this bill is not speech but something entirely different, the ever increasing and disproportionate spend-able money we have in our political system. That is threatening a principle that I would guess all of us hold just as dearly—perhaps more dearly—as the principle of free speech, and that is the principle of democracy, that literally sacred ideal that shaped our Republic and still does, which promises that each person has one vote and that each and every one of us, to paraphrase the words from the Bible, from the heads of the tribes to the priests of the temple to the hewers of wood and the bearers of water, each of us has an equal right and an equal ability to influence the workings of our government.

As it stands now, it is that sacred principle—I use that adjective intentionally—that is under attack. It is that sacred principle that will remain under attack until we do something to protect it. That something, I submit, is campaign finance reform.

Unless we reform our campaign finance system, people with money will continue, as they give it, to have a disproportionate influence in our system. The American people will continue to lose faith in our Government or even bother to vote? Our opponents will continue, I understand, to see the situation differently. Money, they tell us, is just speech in another form. And the outlandish increases we have seen in political giving, they say, are actually signs of the vibrancy of our marketplace of ideas. It is a market place all right, but what is for sale is most certainly not ideas, and what is threatened most certainly is not free speech.

Free speech is a principle we all hold dear. But free speech is about the inalienable right every American has to express his or her views without Government interference. It is about the vision the framers of our Constitution enshrined in that great document, a vision that ensures both we in Congress and those outside—every citizen—will never be forced to compromise our American birth right to offer opinions, even and particularly when those are unpopular or discomfiting to those in power.

That simply is not at issue in this debate, not at issue as a result of the McCain-Feingold proposal. Absolutely nothing in this bill will do anything to diminish or threaten any American’s right to express his or her views about candidates running for office or about any problem or any issue in American life. Indeed, if more money in the system were a sign of more Americans speaking up and more Americans being better informed, then we would have significantly more vibrant elections, dramatically more informative campaigns, increasingly larger voter turnout, and better and better public debates. But before soft money exploded onto the scene, I challenge anyone in this body or outside to say that is the case. It most certainly is not. To the contrary, this campaign finance reform proposal would actually enhance our country’s free speech rights. Under the current system, the voice of monied interests drowns out the voice of average Americans, often preventing them from being truly heard in our public policy debate. This so-called speech in kind, it is this bill, the McCain-Feingold bill, that will restore Americans’ true ability to exercise their right of free speech without limit and with full effect.

In short, Mr. President, what would be threatened by this bill is not speech but something entirely different, the ever increasing and disproportionate spend-able money we have in our political system. That is threatening a principle that I would guess all of us hold just as dearly—perhaps more dearly—as the principle of free speech, and that is the principle of democracy, that literally sacred ideal that shaped our Republic and still does, which promises that each person has one vote and that each and every one of us, to paraphrase the words from the Bible, from the heads of the tribes to the priests of the temple to the hewers of wood and the bearers of water, each of us has an equal right and an equal ability to influence the workings of our government.

As it stands now, it is that sacred principle—I use that adjective intentionally—that is under attack. It is that sacred principle that will remain under attack until we do something to protect it. That something, I submit, is campaign finance reform.

Unless we reform our campaign finance system, people with money will continue, as they give it, to have a disproportionate influence in our system. The American people will continue to lose faith in our Government or even bother to vote? Our opponents will continue, I understand, to see the situation differently. Money, they tell us, is just speech in another form. And the outlandish increases we have seen in political giving, they say, are actually signs of the vibrancy of our marketplace of ideas. It is a market place all right, but what is for sale is most certainly not ideas, and what is threatened most certainly is not free speech.
On page 244, line 8, strike “described in section 523(a)(2)” and insert “described in subparagraph (A) or (B) of section 523(a)(2) that is owed to a domestic governmental unit owed to a person as the result of an action filed under subchapter III of chapter 37 of title 31, United States Code, or any similar State statute.”

AMENDMENT NO. 54, AS FURTHER MODIFIED
On page 13 of amendment number 68 strike line 1 and all that follows through line 3, and insert the following:

“(f) Notwithstanding subsections (a) and (b), the court shall not grant a discharge of all debts provided for by the plan or disallowed under section 502, if the debtor has received a discharge: (1) in a case filed under chapter 7, 11 or 12 of this title during the three-year period preceding the date of the order for relief under this chapter, or (2) in a case filed under chapter 13 of this title during the two-year period preceding the date of such order, except that if the debtor demonstrates extreme hardship requiring that a chapter 13 case be filed, the court may shorten the two-year period.”

AMENDMENT NO. 66, AS FURTHER MODIFIED
Strike line 1, page 22 to line 17, page 22 of amendment number 68 and insert in lieu thereof—

“(f) An individual debtor in a case under chapter 7, 11, or 13 shall file with the court at the request of the Judge, U.S. Trustee, or any party in interest—

“(1) at the time filed with the taxing authority—

any of the Federal tax returns or transcripts thereof required under applicable law, with respect to the period from the commencement of the case until such time as the case is closed; and

“(2) at the time filed with the taxing authority, the Federal tax returns or transcripts thereof required under applicable law, that were not filed with the taxing authority when the schedules under subsection (a)(1) were filed with respect to the period that is 3 years before the order of relief.

“(3) any amendments to any of the Federal tax returns or transcripts thereof, described in paragraph (1) or (2); and


ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. on Tuesday, March 20, 2001.

Thereupon, the Senate, at 7:17 p.m., adjourned until Tuesday, March 20, 2001, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 19, 2001:

COAST GUARD

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S.C., SECTION 121:

To be ensign

QUINCY N. ADAMS, 0000
MARK A. AKUS, 0000
LISA A. ALBRECHT, 0000
NATHANIEL R. ALTMAN, 0000
RYAN J. ALLEN, 0000
CHRISTOPHER M. ARMSTRONG, 0000
AMANDA M. AUSFIELD, 0000
CHARLES B. BAILEY JR., 0000
DAVID M. BAUER, 0000
ANDREW J. BERNINK, 0000
JOSHDUB T. BERRY, 0000
MICHAEL A. BENSON, 0000
JONATHAN BILLINGS, 0000
ROBERT J. BERRY II, 0000

To be ensign...

CRAIG R. BUSH, 0000
CHRIS R. BYRNE, 0000
MATTHEW J. CRAWFORD, 0000
STEVEN R. CRIPPS, 0000
JEROME J. CRONKITE, 0000
JASON M. CRONKITE, 0000
BRENT M. CROSSLAND, 0000
GLENN A. CUBAN, 0000
JASON D. CURTIS, 0000
JASON D. CURTIS, 0000

To be ensign...

To be major general

ROBERT J. BERRY II, 0000
MICHAEL A. BENSON, 0000
CHARLES L. BANKS JR., 0000
NATHAN W. ALLEN, 0000
MARC H. AKUS, 0000
QUINCEY N. ADAMS, 0000
JACOB M. ABBOTT, 0000
JONATHAN J. ABBOTT, 0000
JACOB M. ABBOTT, 0000
JONATHAN J. ABBOTT, 0000
JACOB M. ABBOTT, 0000
JONATHAN J. ABBOTT, 0000

To be major general...

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 1220:

To be major general

BRIG. GEN. JAMES S. SANDERS, 0000
BRIG. GEN. DAVID K. TANZI, 0000

To be major general...

The following executive action was transmitted by the President to the Senate on March 19, 2001, withdrawing from further Senate consideration the following nominations:

THE FOLLOWING-NAMED PERSONS TO THE POSITIONS INDICATED IN THE BILL WHICH WAS SENT TO THE SENATE ON JANUARY 3, 2001:

BONNIE J. CAMPBELL, OF IOWA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE EIGHTH CIRCUIT, VICE GEORGE F. GAGG, RETIRED.

BRIAN J. DUFFY, JR., OF HAWAII, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT, VICE ROBERT A. COPELAND, JR., RETIRED.

BARRY P. GOOD, OF CALIFORNIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE CHARLES W. WIGGINS, RETIRED.

ROGER L. GREGORY, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT, VICE ALEXANDER L. HICKS JR., RETIRED.

CHRISTOPHER S. HOPKINS, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF NEW YORK, VICE ALLAN J. HAMES, JR., RETIRED.
CONGRESSIONAL RECORD — SENATE

March 19, 2001

S2533

SARAH W. LINSOHN, OF MARYLAND, TO BE A JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS FOR A TERM EXPIRING DECEMBER 19, 2006. VICE ROBERT A. ZANNI, TERM EXPIRED.

JAMES W. YNN, JR., OF NORTH CAROLINA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT. VICE JAMES DICKINSON PHILLIPS, JR., RETIRED. NOMINATED ON JANUARY 4, 2001.

JAMES E. ANKINS, OF KANSAS, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT. VICE JOHN M. SMITH, TERM EXPIRED. THE FOLLOWING-NAMED PERSONS, WHICH WERE SENT TO THE SENATE ON JANUARY 5, 2001:

JAMES M. ADDA, OF VIRGINIA, TO BE ASSISTANT ADMINISTRATOR FOR TOXIC SUBSTANCES OF THE ENVIRONMENTAL PROTECTION AGENCY. VICE LYNN R. GOLDMAN, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESSION OF THE SENATE.

NINA M. ARCHARAL, OF MINNESOTA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2006, VICE MARSHA P. MARTIN, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESSION OF THE SENATE.

JAMES H. ATKINS, OF ARKANSAS, TO BE MEMBER OF THE FEDERAL RETIREMENT THrift INVESTMENT BOARD FOR A TERM EXPIRING DECEMBER 17, 2003, VICE JAMES W. DIXON, WHO RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESSION OF THE SENATE.

GROOP RAINA, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL CREDIT UNION ADMINISTRATION BOARD FOR THE TERM OF FIVE YEARS FROM JULY 1, 2001, VICE ROY B. NORMAN, TERM EXPIRED. THE FOLLOWING- NAMED PERSONS, WHICH WERE SENT TO THE SENATE ON JANUARY 6, 2001:

ROSS EDWARD EISENBREY, OF THE DISTRICT OF COLOMBIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA. VICE G. FRED DEAN, TERM EXPIRED. THE FOLLOWING- NAMED PERSONS, WHICH WERE SENT TO THE SENATE ON JANUARY 7, 2001:

DARRYL L. SYMONS, OF RHODE ISLAND, TO BE UNDER SECRETARY OF EDUCATION, VICE SARAH MCCRACKEN FOX, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESSION OF THE SENATE.

SARAH MCCRACKEN FOX, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESSION OF THE SENATE.

CRAIG E. BUTLER, OF VIRGINIA, TO BE CHIEF INFORMATION OFFICER FOR THE MILITARY. VICE JOHN T. O'BRIEN, TERM EXPIRED. THE FOLLOWING- NAMED PERSONS, WHICH WERE SENT TO THE SENATE ON JANUARY 8, 2001:

JANET C. PELLETIER, OF NEW YORK, TO BE MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 4, 2003. VICE JOHN ROTHER. TERM EXPIRED. WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESSION OF THE SENATE.


SUZANNE H. HAMEROW, TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESSION OF THE SENATE.

ALLEN E. CARRIER, OF NEW YORK, A CAREER MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING JANUARY 26, 2006, VICE ROBERT I. ROTBERG, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESSION OF THE SENATE.

JAMES HAMMOND, OF LOUISIANA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING JANUARY 26, 2006, VICE RICHARD W. RENSCHLER, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESSION OF THE SENATE.

DANNY W. SCOTT, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING JANUARY 26, 2006. VICE ALLEN E. CARRIER, TERM EXPIRED. WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESSION OF THE SENATE.


JAMES H. ATKINS, OF ARKANSAS, TO BE MEMBER OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD FOR A TERM EXPIRING DECEMBER 17, 2003, VICE JAMES W. DIXON, WHO RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESSION OF THE SENATE.
IN HONOR OF WOODIE KING, JR.’S, NEW FEDERAL THEATRE ON ITS 30TH ANNIVERSARY

HON. CAROLYN B. MALONEY
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Monday, March 19, 2001

Mrs. MALONEY of New York. Mr. Speaker, I rise today to pay tribute to Woodie King, Jr.’s, New Federal Theatre, which will be honored at a celebration of its 30th anniversary on March 25, 2001. For 30 years, Woodie King, Jr.’s, New Federal Theatre has provided emerging playwrights the opportunity to have their work produced and given employment opportunities to minority actors, directors, and producers.

The celebration will be hosted by such luminaries as, among others, Debbie Allen and Avery Brooks, and Angela Bassett, Ossie Davis, Ruby Dee, Lesley Uggams, James Earl Jones, Denzel Washington, and Debbie Morgan.

Along with celebrating the anniversary of the New Federal Theatre, the event will also honor the Shubert’s Gerald Schoenfield, directors Lloyd Richards and Shauwnelle Perry, producers Wynn Handman, Phillip Rose, and Michael Bevins, the Coca-Cola Foundation education director. Posthumous honorees include photographer Bert Andrews and costume designer Judy Dearing.

Woodie King Jr.’s New Federal Theatre presented its first production in the 1970-1971 season and has produced more than 175 plays, including the award-winning plays For Colored Girls Who Have Considered Suicide/ When the Rainbow is Enuf, Child of the Sun, and Black Girl. Among the many notable directors whose work has been seen at the New Federal Theatre include Laurence Hold- ear, Damien Lake, and Ron Milner. Some of the more well-known actors who have performed at the theater include Morgan Freeman, Denzel Washington, and Debbie Morgan.

The New Federal Theatre is named after Woodie King Jr., the founder and producing director of the New Federal Theatre and National Black Touring Circuit in New York City. In the thirty-year history of the theater, Woodie King has presented more than 150 productions, both Broadway and off-Broadway shows. Among his many awards, Mr. King is the recipient of an Obie Award for Sustained Achievement as well as an Honorary Doctorate in Humane Letters from Wayne State University and a Doctorate of Fine Arts from the College of Wooster. His 1974-75 production of The Taking of Miss Janie, which he produced, won a Drama Critics Circle Award as Best New American Play. Aside from his work at the New Federal Theatre, Mr. King has produced and directed shows all over the nation, with his work appearing in Atlanta, Detroit, St. Louis, Brooklyn, and Bermuda.

For 30 years, Woodie King Jr.’s New Federal Theatre has provided many of today’s most successful and promising theater professionals with a chance to present their work in an established and professional theatrical venue. Without the opportunity to perform at Woodie King’s New Federal Theatre, encouraged by Woodie King himself, many of today’s most successful and prominent theater professionals would have perhaps never achieved their current successes.

Mr. Speaker, I ask my colleagues to join in acknowledging Woodie King and the pioneers of Woodie King’s New Federal Theatre on the theater’s thirtieth anniversary. Woodie King’s New Federal Theatre, with a stellar record of accomplishment, has truly made an important contribution to American Theater.

INTRODUCTION OF THE PRUDENTIAL SPIRIT OF COMMUNITY AWARDS

HON. DON YOUNG
OF ALASKA
IN THE HOUSE OF REPRESENTATIVES
Monday, March 19, 2001

Mr. YOUNG of Alaska Mr. Speaker, I would like to congratulate and honor a young student from Alaska who has achieved national recognition for exemplary volunteer service in her community. Kari Wise of Anchorage has just been named one of Alaska’s top honorees in the 2001 Prudential Spirit of Community Awards program, an annual honor conferred on the most impressive student volunteers in each state, the District of Columbia and Puerto Rico.

Ms. Wise is being recognized for developing a program designed to help middle school students understand what it means to begin high school. Her program, named “View on Your Future Is All About YOU,” helped young students realize destructive behavior is not the answer for dealing with difficult life experiences.

In light of numerous statistics that indicate young Americans today are less involved in their communities than they once were, it’s vital that we encourage the selfless contributions this young woman has made. People of all ages need to think more about how we, as individuals, can work together at the local level to ensure the health and vitality of our communities than they once were, it’s vital that we encourage the selfless contributions this young woman has made. People of all ages need to think more about how we, as individuals, can work together at the local level to ensure the health and vitality of our communities.

The Prudential Spirit of Community Awards program brought this young role model to our attention. This program was created by The Prudential Insurance Company of America in partnership with the National Association of Secondary School Principals in 1995 to impress upon all young volunteers that their contributions are critically important and highly valued. Over the past six years, the program has become the nation’s largest youth effort based on community service, with an estimated 100,000 youngsters participating since its inception.

We are extremely proud that Ms. Wise has been singled out from such a large group of dedicated volunteers. I applaud Ms. Wise for her initiative in seeking to make her community a better place to live, and for the positive impact she has had on the lives of others. Clearly, she has demonstrated a level of commitment and accomplishment that deserves our sincere admiration and respect. Her actions show that young Americans can, and do, play an important role in our communities.

TRIBUTE TO KEVIN KANNENGEISER

HON. ANNA G. ESCHO
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Monday, March 19, 2001

Ms. ESCHOO. Mr. Speaker, I rise today to honor Kevin Kannengeiser, an extraordinary teacher, coach, friend, and mentor to the students at St. Nicholas School in Los Altos Hills, California.

Mr. Kannengeiser or Mr. K, as he is known to his students, came to St. Nicholas School in January, 1977. During his 25 years at St. Nicholas, he has worked tirelessly on behalf of his students. As the 8th grade homeroom teacher and Chair of the Mathematics Department, Mr. K dedicates himself to educating, advising and guiding his students. His commitment is evident through his consistent work to offer his students educational opportunities in and out of the classroom.

Ten years ago, Mr. Kannengeiser launched the idea of taking his Social Studies students on an annual trip to Washington, D.C., so that they would better understand the workings of our government. As athletic director, Mr. K coaches the boys’ basketball team, and for the past 27 years he has hosted the Annual Boys Basketball Tournament in the Bay Area.

Mr. Speaker, I ask my colleagues to join me in paying tribute to an outstanding community leader and a remarkable teacher who has touched the lives of countless students and serves as an inspiration to so many. Mr. K has sustained and expanded in the Catholic education system. He has earned the deepest respect and admiration of his colleagues, of parents, and his students for his extraordinary dedication and effectiveness in all he does at St. Nicholas School.

Mr. Speaker, we are indeed a better nation and a better people, because of Kevin Kannengeiser and it is a privilege to honor my constituent for his very special leadership.
PERSONAL EXPLANATION

HON. DANNY K. DAVIS
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES

Monday, March 19, 2001

Mr. DAVIS. Mr. Speaker, I was unavoidably absent from the House at the time of votes on two measures. Had I been present, my vote on H.R. 861, to make technical amendments to section 10 of title 9 of the United States Code would have been “aye.” In addition, I would have voted “aye” on H.R. 721, the Made In American Information Act.

IN HONOR OF BARBARA CORNWALL LYSSARIDES, AUTHOR OF MY OLD ACQUAINTANCE: YESTERDAY IN CYPRUS

HON. CAROLYN B. MALONEY
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Monday, March 19, 2001

Mrs. MALONEY of New York. Mr. Speaker, I rise today to pay tribute to Ms. Barbara Cornwall Lyssarides, a Cypriot-American journalist whose recently published book, My Old Acquaintance: Yesterday in Cyprus, details the recent history of the island of Cyprus. Ms. Lyssarides will be honored on the evening of March 7, 2001 by Cyprus’s Consulate General to the United States. Mr. Vasilis Philippou, at a book signing presentation at the Consulate General’s office in New York.

Ms. Lyssarides is an accomplished journalist whose previous books include a first-hand account of guerrilla warfare in the Portuguese colonies of Africa, which was published in New York and London. When the National Organization of Cypriot Struggle (EOKA) launched a rebellion for independence from British rule on October 1, 1960, Ms. Lyssarides covered it as a young staff reporter and feature writer for the daily Times of Cyprus.

Ms. Lyssarides has spent much of her life living abroad, mostly in Cyprus. She was born in Detroit, Michigan and received her degree in history from Wayne State University, where she also studied journalism. Throughout her career, Ms. Lyssarides has traveled all over the world, serving as a reporter for numerous foreign newspapers.

In her introduction to My Old Acquaintance, Ms. Lyssarides writes:

Over the millennia, Cyprus has been sold, colonized, inherited, borrowed, lent, defeated, delivered, neglected, isolated, annexed, misruled, sometimes well-governed, often betrayed . . . To me, it is astonishing that its people have survived at all, not only physically but with religion intact for almost 2,000 years, language even longer, and with customs and beliefs little changed after centuries of foreign impact.

Mr. Speaker, the nation of Cyprus has been beset by instability for too long. Barbara Cornwall Lyssarides eloquently describes her own relationship with this troubled island and I salute her for her admirable efforts to bring attention to her adopted homeland and this extremely important international issue.

INTRODUCTION OF THE PRUDENTIAL SPIRIT OF COMMUNITY AWARDS

HON. DON YOUNG
OF ALASKA
IN THE HOUSE OF REPRESENTATIVES

Monday, March 19, 2001

Mr. YOUNG of Alaska. Mr. Speaker, I would like to congratulate and honor a young student from Alaska who has achieved national recognition for exemplary volunteer service in her community. Justin Gonka of Anchorage has just been named one of Alaska’s top honorees in The 2001 Prudential Spirit of Community Awards program, an annual honor conferred on the most impressive student volunteers in each state, the District of Columbia and Puerto Rico.

Mr. Gonka is being recognized for his dedication and continuous support of the Special Olympics. Justin has assumed numerous roles within the Special Olympics and hopes to one day become a coach. Besides being a great student, Justin has also helped to recruit other young people get involved and volunteer for the Special Olympics.

In light of numerous statistics that indicate Americans are less involved in their communities than they once were, it’s vital that we encourage and support the kind of selfless contribution this young man has made. People of all ages need to think about how we, as individual citizens, can work together at the local level to ensure the health and vitality of our towns and next door neighbors. Young volunteers like Mr. Gonka are an inspiration to all of us, and are among our brightest hopes for a better tomorrow.

The program that brought this young role model to our attention—The Prudential Spirit of Community Awards—was created by The Prudential Insurance Company of America in partnership with the National Association of Secondary School Principals in 1995 to impress upon all young volunteers that their contributions are critically important and highly valued, and to inspire other young people to follow their example. Over the past six years, the program has become the nation’s largest youth recognition effort based solely on community service, with nearly 100,000 young- sters participating since its inception.

Mr. Gonka should be extremely proud to have been singled out from such a large group of dedicated volunteers. I applaud Mr. Gonka for his initiative in seeking to make his community a better place to live, and for the positive impact he has had on the lives of others. He has demonstrated a level of commitment and accomplishment that is truly extraordinary in today’s world, and deserves our sincere admiration and respect. His actions show that young Americans can, and do, play an important role in our communities.

TRIBUTE TO YOLANDA TOWNSEND WHEAT

HON. JOE BACA
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Monday, March 19, 2001

Mr. BACA. Mr. Speaker, I rise to salute one of the Inland Empire’s own, Yolanda Townsend Wheat.

A Board Member of the National Credit Union Administration, and native of the 42nd Congressional District of California, Yolanda will be visiting the area this month, making a number of presentations to schools, businesses, and academia.

We feel in our hearts great pride for Yolanda’s achievements, and hope she will inspire a new generation of young people in our area. Yolanda truly embodies the American dream that if you work hard, if you persevere, there is nothing you cannot achieve. I hope the children in the Inland Empire will look to her as a role model and mentor.

I offer my best wishes to Yolanda, her husband, Alan Wheat, former Congressman from Missouri, and their two children. I know they are proud of all she has attained.

Yolanda’s achievements are remarkable for their great breadth and depth. An attorney specializing in corporate finance, President Bill Clinton named her to the National Credit Union Administration (NCUA) Board in April 1996. She served as NCUA chairwoman for a short time in early 2001.

The three-person NCUA Board is responsible for overseeing more than 10,000 federally insured credit unions with assets totaling over $400 billion. The NCUA is the independent federal agency that insures the deposits of more than 76 million credit union members in the nation’s federal credit unions and most state-chartered credit unions.

During her tenure on the NCUA Board, Yolanda has been a champion for the interests of consumers, focusing on such issues as access to financial services, privacy and predatory lending practices. She has been instrumental in developing incentives that help credit unions expand their membership base so that as many consumers as possible have access to credit union services. She has worked to empower credit unions to provide more services in the financial marketplace in order to remain competitive and thrive in the 21st Century.

Yolanda was raised in a multicultural household in California. Her mother (the former Mary Sanchez) worked in a law firm and was the inspiration of Yolanda’s desire to pursue law as a career. Her father, Art Townsend, was the founder and publisher of The Precinct Reporter, a weekly African American newspaper in my district.

As an attorney, Yolanda has nearly ten years of specialized experience in real estate and corporate law. She represented commercial lending and financial institutions at several law firms. She worked in both the Los Angeles and Washington, D.C. offices of the law firm of Morrison and Foerster from 1986 to 1992. She received her law from 1983 with the former law firm of Smith, Gill, Fisher & Butts in Kansas City, Missouri.

A native of San Bernardino, California, Yolanda holds a J.D. for Harvard Law School and graduated with distinction from Stanford University with an A.B. in International Relations. She is a member of the bars of California, Maryland and Missouri.

All of this adds up to a truly remarkable record of achievement and public service. And so, as Yolanda visits the people of the Inland Empire, we wish her God’s blessings, good wishes, and our proudest thoughts.
speech of
HON. JIM LANGEVIN
OF RHODE ISLAND
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 15, 2001

Mr. Langevin. Mr. Chairman, today we consider H.R. 327, the Small Business Paperwork Reduction Act, which will reduce paperwork for America’s hardworking small business owners. As the son of a small business owner, I support efforts to reduce paperwork for small businesses and protect them from unnecessary and onerous regulatory requirements.

This measure, while similar to legislation approved by the House in the last two Congresses, excludes controversial language that would have waived civil fines on small businesses for first-time paperwork violations. However, I maintain significant reservations about voting on a small business bill that was never considered by the Small Business Committee on which I proudly serve.

One concern I would have liked to address in the committee is the need to balance the reduction in paperwork with the prevention of willful mistakes and worker safety hazards. It is our responsibility to ensure that the workplace remains safe. Further, we need to maintain our ability to sanction those small numbers of businesses that are undercutting their competition by willingly circumventing or ignoring the law.

Small businesses are the backbone of Rhode Island’s economy and account for more than 95 percent of the job market in the state. They create new businesses and jobs; bring new and innovative services and products to the marketplace; and provide business ownership opportunities to diverse and traditionally underrepresented groups. I remain committed to the small business community of Rhode Island and will support the Small Business Paperwork Reduction Act, but I strongly urge my colleagues to continue to examine this issue through the appropriate legislative process.

IN HONOR OF KRIKOS ON THE OCCASION OF THEIR ANNUAL DINNER, AND THEIR HONOREE MR. COSTAS ATHANASIADIS

HON. CAROLYN B. MALONEY
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Monday, March 19, 2001

Mrs. Maloney of New York. Mr. Speaker, I rise today to pay tribute to the Hellenic organization KRIKOS and Mr. Costas Athanasiades, who is the organization that will honor at their annual dinner on March 11, 2001. KRIKOS was founded in 1974 to foster and promote cooperation and fellowship among Hellenes and phil-Hellenes throughout the world. KRIKOS also aims to preserve and enrich Hellenic heritage.

In their efforts to spread the understanding of Hellenic issues, KRIKOS has organized conferences throughout the world and frequently publishes reports of their proceedings. Among the subjects various conferences have examined include: the Philadelphia conference on biotechnology, the Athens conference on telecommunications, and the New York conferences focusing on issues such as the impact of globalization and the Greek response to the Yugoslavian Civil Wars.

KRIKOS has provided guidance to college and college-bound Hellenic youth in the United States and abroad from 1974 until today. Additionally, KRIKOS has made it possible for students to visit abroad through a world-study program. In keeping with its dedication to scholarship, KRIKOS sponsored five thousand (5,000) books to the Polytechnic University in Athens.

KRIKOS was instrumental in documenting the artistic and historic treasures located in St. Catherine Monastery on Mt. Sinai. For hundreds of years St. Catherine’s has been a prime destination for pilgrims to the Holy Land and KRIKOS helped computerize its properties.

Costas Athanasiades was born in Kalavasos, Cyprus on March 3, 1921, and studied in Italy where he received a degree as an agriculturalist. In 1938, he returned to his native Cyprus and spearheaded the effort to organize farmers into economically potent cooperatives. He undertook similar initiatives with the formation and development of trade unions. Mr. Athanasiades served valiantly with British Commander Montgomery’s Cypriot troops during the second World War. His dream of freedom and “Enosis” (union with motherland Greece) was looked upon as subservive and revolutionary by the British colonial authorities.

Accordingly, a British military court condemned Mr. Athanasiades to a two-year detention at a barb-wire prison camp in Egypt. In 1949, he emigrated to Australia and in 1958 he married the former Maria Pavlidou, his wife of 43 years. During his years in Australia, he nurtured and developed Hellenic institutions of his new homeland, much as he did in his native Cyprus. In 1959, he came to America, where he briefly was employed by the National Herald, a Greek American daily newspaper. Mr. Athanasiades purchased the Campana Newspaper in 1961. In conjunction with his Campana newspaper, Mr. Athanasiades has authored more than a dozen books expounding social, political, and economic commentary. He has been cited and acknowledged by many prestigious institutions, including the National Library of Congress and the United Nations, for his insights and contributions.

Mr. Speaker, I ask my colleagues to join me in acknowledging the wonderful work of Costas Athanasiades, a philologist, author, and contemporary voice of Hellenism in the United States.

social security benefits protection act

HON. PATSY T. MINK
OF HAWAII
IN THE HOUSE OF REPRESENTATIVES
Monday, March 19, 2001

Mrs. Mink of Hawaii. Mr. Speaker, today I am introducing the Social Security Benefits Protection Act.

The bill corrects an injustice under the Social Security Act which affects beneficiaries’ families. Under current law, no Social Security benefit is paid for the month in which a recipient dies. A person could live until the last day of the month and still would not be entitled to the Social Security benefits for the month.

The Social Security Benefits Protection Act corrects that injustice. Under the Act, benefits would be paid for the month of a recipient’s death. Regardless of when the person died, they would be entitled to the Social Security payment for the month in which they died.

This small correction will provide a small benefit for the deceased person’s survivors. Having lost a loved one, they should not lose the Social Security benefit for that person’s last month of life.

I urge my colleagues to join in cosponsoring the Social Security Benefits Protection Act.

MRS. ORA MAE HARN
HON. JIM KOLBE
OF ARIZONA
IN THE HOUSE OF REPRESENTATIVES
Monday, March 19, 2001

Mr. Kolbe. Mr. Speaker, I rise today to honor Mrs. Ora Mae Harn, a resident of the town of Marana, Arizona for the past forty-one years. Ora Mae is being honored on the occasion of her retirement last year from the Marana Health Center.

After arriving in Marana, Ora Mae worked for the Marana Unified School District from 1962–74 as a bus driver, a cafeteria cook and a warehouse assistant. Subsequently, she spent a quarter century at the Marana Health Center, serving as director of community relations (1975–79), social services director (1979–91), and finally as director until her retirement last year.

Starting in 1985, Ora Mae was a member of the Marana Town Council, and served as Marana’s first female Mayor from 1990–95 and again from 1997–99. Her constant work to cultivate lasting professional relationships with regional, state and federal officials benefited Marana in many ways.

She has served as president of the Arizona Women in Municipal Government, as a member of the Pima Council on Aging (1983–87), as an active representative to the Pima Association of Governments as early as 1990 (including serving as its Chair in 1999) and has represented Marana in the League of Arizona Cities and Towns as early as 1992.

Ora Mae has been the major force in bringing floor control projects to Marana and starting the Pima County Santa Cruz Bank Protection Project. She also played a role in the levee project, which was completed and dedicated last year, and she was instrumental in bringing a federally funded housing program to Marana, earning her several awards from the Community Development Block Grant Program for her outstanding leadership and community involvement.

Ora Mae has been involved with a large number of community projects such as Marana’s Founders’ Day Committee, the Sister Cities Program, Yoem Pueblo Rehabilitation Project, the Lot Beautification Project, and the Graf- fiti Abatement Program. She also founded the Marana Food Bank in 1985 and currently its volunteer director. And she continues to be involved with her community by volunteering for projects as varied as reading to
elementary school students and church-sponsored activities.

Married for almost fifty years to Gerald Harn, who passed away last month, she is the mother of two daughters and a son and the proud grandmother of five. Since coming to Marana, she has been an active member of the Faith Community Church congregation and has volunteered for numerous church-sponsored activities.

Mr. Speaker, I’d like to commend Mrs. Ora Mae Harn for her four decades of tireless service to the town of Marana and wish her well in her retirement, which I suspect won’t really be a retirement.

TRIBUTE TO ANDREAA LEARNED

HON. LYNN C. WOOLSEY
OF CALIFORNIA
HON. MIKE THOMPSON
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Monday, March 19, 2001

Ms. WOOLSEY. Mr. Speaker, I, along with my colleague from California, Mr. THOMPSON, wish today to honor Andrea Learned. Back in 1989, when Andrea Learned became executive director of Face to Face, an organization located in Sonoma County that cares for people with AIDS, it was a struggling grassroots organization facing a terrible epidemic that was still very new. Over the next eleven years, Andrea shaped Face to Face into one of the best and most comprehensive AIDS services organizations in the nation. Through her creative leadership, courageous innovations, and simple courage in the face of indifference and fear, she has brought new hope to our community, and most especially to Sonoma County residents and families dealing with AIDS.

Andrea Learned has been an outstanding champion of AIDS services and advocacy, not only in Sonoma County, but nationwide. She has served on both the Sonoma County AIDS Commission and on state and national planning boards, inspiring others with her steadfast commitment and refusal to give up.

Today, guided by 11 years of Andrea’s leadership, Face to Face provides case management, benefits counseling, emotional support, transportation to appointments, and advocacy to hundreds of clients. It is vital work that we are proud to support.

At the end of 2000, Andrea Learned retired from Face to Face. Her staff, volunteers, and clients will miss her immensely. Mr. Speaker, today we salute Andrea Learned for her many years of dedicated work for Sonoma County.

CELEBRATING THE ACHIEVEMENTS OF THE AMERICAN JEWISH CONGRESS METROPOLITAN REGION AND ITS HONOREES, PHILIP CHRISTOPHER AND ELIZABETH KELLY

HON. CAROLYN B. MALONEY
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Monday, March 19, 2001

Mrs. MALONEY of New York. Mr. Speaker, I rise today to honor the American Jewish Congress Metropolitan Region on the occasion of their annual dinner. I particularly want to recognize its Co-Presidents, Michael Nussbaum and John Heffer, as well as Arthur Flug, the Executive Director, and John Baer and Trudy L. Mason, Chairs of the Executive Committee.

Ever since its inception during World War I, the American Jewish Congress (AJC) has worked tirelessly to serve as a democratic voice of American Jews. Motivated by the need to ensure the creative survival of the Jewish people, deeply cognizant of the Jewish responsibility to participate fully in public life, inspired by Jewish teachings and values, informed by liberal principles, dedicated to an activist and independent role, and committed to making its decisions through democratic processes, AJC has taken an activist role on countless issues.

AJC is an important voice on gun control, reproductive rights, sweatshops, domestic violence, and religious freedom. Members work to advance social and economic justice, women’s equality, and human rights at home and abroad. The effort to fight anti-Semitism and all other forms of bigotry remains a central focus of AJC. Eight decades after its founding, AJC’s dedication to human rights and freedom, to separation of church and state, to the concept of a united Jewish people, to the health and strength of Israel, is as bold, steadfast, and as impassioned as ever.

The Metropolitan Region has been active in working on issues relating to education, most recently holding forums on charter schools, teacher recruitment, and high stakes testing. The Metropolitan Region also works to promote policies to protect the environment both locally and in Israel. In addition, members work to protect human and civil rights and preserve religious liberty and the separation of church and state.

The Metropolitan Region is honoring two individuals who have been remarkable advocates for freedom. Philip Christopher is the recipient of the Man of the Year Award. Mr. Christopher has been a successful businessman and an energetic advocate for the Greek-American community. As President and CEO of the Audiovox Corporation, he has emerged as a major leader in cellular communications. Despite the pressures of running a major corporation, Mr. Christopher has devoted a great deal of time to public policy and is one of the most prominent proponents of freedom for Cyprus. As a member of the Democratic National Committee Greek American Leadership Council, President of the International Coordinating Committee Justice for Cyprus, President of the Pancyprian Association of America, the Supreme President of the Cyprus Federation of American, and President of the Hellenic American Sports League, Mr. Christopher has brought dynamic leadership and a strong sense of purpose to his efforts to fight for the Greek-American community.

Elizabeth Kelly is the recipient of the Devorah Award. She has been a strong advocate for better health care. Shortly after her arrival in the United States, she founded the Uninsured Irish Foundation to provide health care to uninsured Irish Americans. Today she is President and Chief Executive Officer of New York Network Management LLC and the affiliated Physician Independent Practice Associations. In 1996, Ms. Kelly petitioned New York State to grant discounts based on the risk management that could be achieved through her organization. This program set a precedent that allows physician members of Independent Practice Associations to receive malpractice premium discounts for the first time in the history of the State. An advocate for better models for the delivery of health care, Ms. Kelly has been an innovator and a visionary.

Mr. Speaker, I ask my colleagues to join me in celebrating the achievements of the American Jewish Congress Metropolitan Region and its honorees, Philip Christopher and Elizabeth Kelly.
SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, March 20, 2001 may be found in the Daily Digest of today’s RECORD.

MEETINGS SCHEDULED

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<th>Time</th>
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<td>9 a.m.</td>
<td>Environment and Public Works</td>
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<td>9:30 a.m.</td>
<td>Energy and Natural Resources</td>
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<tr>
<td>9 a.m.</td>
<td>United States Senate Caucus on International Narcotics Control</td>
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<tr>
<td>9:30 a.m.</td>
<td>Armed Services Readiness and Management Support Subcommittee</td>
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<tr>
<td>10 a.m.</td>
<td>Appropriations Defense Subcommittee</td>
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<tr>
<td>10 a.m.</td>
<td>Judiciary Antitrust, Business Rights, and Competition Subcommittee</td>
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<tr>
<td>10 a.m.</td>
<td>Commerce, Science, and Transportation Surface Transportation and Merchant Marine Subcommittee</td>
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<tr>
<td>2 p.m.</td>
<td>Energy and Natural Resources Water and Power Subcommittee</td>
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<tr>
<td>2:30 p.m.</td>
<td>Energy and Natural Resources National Parks, Historic Preservation, and Recreation Subcommittee</td>
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<tr>
<td>3 p.m.</td>
<td>Intelligence To hold closed hearings on intelligence matters.</td>
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<tr>
<td>3:30 p.m.</td>
<td>Armed Services To hold hearings on proposed legislation authorizing funds for fiscal year 2002 for the Department of Defense and the Future Years Defense Program, focusing on military strategy and operational requirements, to be followed by closed hearings (in Room SH-219).</td>
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<tr>
<td>9 a.m.</td>
<td>Agriculture, Nutrition, and Forestry</td>
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<tr>
<td>9:30 a.m.</td>
<td>Agriculture, Nutrition, and Forestry To hold hearings to review the Food Safety and Inspection Service, Department of Agriculture.</td>
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<td>10 a.m.</td>
<td>Armed Services Veterans' Affairs</td>
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<td>10 a.m.</td>
<td>Armed Services Veterans' Affairs To hold joint hearings with the House Committee on Veterans’ Affairs to examine the legislative recommendations of the AMVETS, American Ex-Prisoners of War, Vietnam Veterans of America, Retired Officers Association, and the National Association of State Directors of Veterans Affairs.</td>
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<tr>
<td>10 a.m.</td>
<td>Governmental Affairs Oversight of Government Management, Re-structuring and the District of Columbia Subcommittee</td>
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<tr>
<td>10:30 a.m.</td>
<td>Education, Labor, and Pensions National Labor Relations Act Subcommittee</td>
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<td>Health, Education, Labor, and Pensions National Labor Relations Act Subcommittee</td>
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<td>Appropriations Interior Subcommittee</td>
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<tr>
<td>11 a.m.</td>
<td>Foreign Relations</td>
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</tbody>
</table>
Under Secretary of State for Arms Control and International Security.

SD-419

2:30 p.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To hold oversight hearings on the implementation of the Administration’s National Fire Plan.
SD-628

APRIL 3
10 a.m.
Judiciary
To hold hearings to examine online entertainment and related copyright law.
SD-226

APRIL 5
10 a.m.
 Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2002 for the Department of Energy.
SD-138

APRIL 24
10 a.m.
 Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2002 for the Bureau of Reclamation, of the Department of the Interior, and Army Corps of Engineers.
SD-124

Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2002 for the Department of the Interior.
SD-138

APRIL 25
10 a.m.
Judiciary
To hold hearings to examine the legal issues surrounding faith based solutions.
SD-226

Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2002 for the Corporation for National and Community Service.
SD-138

APRIL 26
2 p.m.
 Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2002 for the National Nuclear Security Administration, Department of Energy.
SD-124

MAY 1
10 a.m.
 Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2002 for certain Department of Energy programs relating to Energy Efficiency Renewable Energy, science, and nuclear issues.
SD-124

MAY 2
10 a.m.
 Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2002 for the Department of Veterans Affairs.
SD-138

MAY 3
2 p.m.
 Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2002 for Department of Energy environmental management and the Office of Civilian Radio Active Waste Management.
SD-124

MAY 8
10 a.m.
Judiciary
To hold hearings to examine high technology patents, relating to genetics and biotechnology.
SD-226

MAY 9
10 a.m.
 Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2002 for the National Aeronautics and Space Administration.
SD-138

MAY 16
10 a.m.
 Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2002 for the Federal Emergency Management Agency.
SD-138

JUNE 6
10 a.m.
 Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2002 for the National Science Foundation and the Office of Science Technology Policy.
SD-138

JUNE 13
10 a.m.
 Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2002 for the Environmental Protection Agency and the Council of Environmental Quality.
SD-138

JUNE 20
10 a.m.
 Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2002 for the Department of Housing and Urban Development.
SD-138

POSTPONEMENTS
MARCH 27
10:30 a.m.
 Appropriations
Energy and Water Development Subcommittee
To hold oversight hearings on issues relating to Yucca Mountain.
SD-124

APRIL 3
10 a.m.
 Appropriations
Energy and Water Development Subcommittee
To hold oversight hearings to examine issues surrounding nuclear power.
SD-124
**Daily Digest**

**Senate**

**Chamber Action**

*Routine Proceedings, pages S2421–S2533*

**Measures Introduced:** Eight bills and one resolution were introduced, as follows: S. 560–567, and S. Con. Res. 26.

**Campaign Finance Reform:** Committee on Rules and Administration was discharged from further consideration of S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform, and the Senate then began consideration of the bill, taking action on the following amendment proposed thereto: Pages S2433–69

Rejected:

Domenici/Ensign Amendment No. 112, to increase contribution limits in response to candidate’s use of personal wealth and limit time to use contributions to repay personal loans to campaigns. (By 51 yeas to 48 nays (Vote No. 37), Senate tabled the amendment.)

A unanimous-consent agreement was reached providing for further consideration of the bill on Tuesday, March 20, 2001. Pages S2449–68

**Bankruptcy Reform—Agreement:** A unanimous-consent agreement was reached providing that with respect to S. 420, Bankruptcy Reform, amendments 43, 54, and 66 be modified or further modified to make technical corrections. Pages S2531–32

**Nominations Received:** Senate received the following nominations:

- 30 Air Force nominations in the rank of general.
- A routine list in the Coast Guard.

**Nominations Withdrawn:** Senate received notification of the withdrawal of the following nominations:

- Bonnie J. Campbell, of Iowa, to be United States Circuit Judge for the Eighth Circuit, which was sent to the Senate on January 3, 2001.
- James E. Duffy, Jr., of Hawaii, to be United States Circuit Judge for the Ninth Circuit, which was sent to the Senate on January 3, 2001.
- Barry P. Goode, of California, to be United States Circuit Judge for the Ninth Circuit, which was sent to the Senate on January 3, 2001.
- Roger L. Gregory, of Virginia, to be United States Circuit Judge for the Fourth Circuit, which was sent to the Senate on January 3, 2001.
- Kathleen McCree Lewis, of Michigan, to be United States Circuit Judge for the Sixth Circuit, which was sent to the Senate on January 3, 2001.
- Enrique Moreno, of Texas, to be United States Circuit Judge for the Fifth Circuit, which was sent to the Senate on January 3, 2001.
- Sarah L. Wilson, of Maryland, to be a Judge of the United States Court of Federal Claims for a term of fifteen years, which was sent to the Senate on January 3, 2001.
- Helene N. White, of Michigan, to be United States Circuit Judge for the Sixth Circuit, which was sent to the Senate on January 3, 2001.
- James A. Wynn, Jr., of North Carolina, to be United States Circuit Judge for the Fourth Circuit, which was sent to the Senate on January 3, 2001.
- H. Alston Johnson, III, of Louisiana, to be United States Circuit Judge for the Fifth Circuit, which was sent to the Senate on January 4, 2001.
- Islam A. Siddiqui, of California, to be Under Secretary of Agriculture for Marketing and Regulatory Programs, which was sent to the Senate on January 5, 2001.
- Michael V. Dunn, of Iowa, to be a Member of the Farm Credit Administration Board, Farm Credit Administration for a term expiring October 13, 2006, which was sent to the Senate on January 5, 2001.
- Allan I. Mendelowitz, of Connecticut, to be a Director of the Federal Housing Finance Board for a term expiring February 27, 2007, which was sent to the Senate on January 5, 2001.
- Geoff Bacino, of Illinois, to be a Member of the National Credit Union Administration Board for the term of six years expiring August 2, 2005, which was sent to the Senate on January 5, 2001.
- James A. Dorskind, of California, to be General Counsel of the Department of Commerce, which was sent to the Senate on January 5, 2001.
- Elwood Holstein, Jr., of New Jersey, to be Assistant Secretary of Commerce for Oceans and Atmosphere, which was sent to the Senate on January 5, 2001.
Susan Ness, of Maryland, to be a Member of the Federal Communications Commission for a term of five years from July 1, 1999, to which position she was appointed during the last recess of the Senate, which was sent to the Senate on January 5, 2001.

David Z. Plavin, of New York, to be a Member of the Federal Aviation Management Advisory Council for a term of one year (New Position), to which position he was appointed during the last recess of the Senate, which was sent to the Senate on January 5, 2001.

Arthenia L. Joyner, of Florida, to be a Member of the Federal Aviation Management Advisory Council for a term of one year (New Position), to which position she was appointed during the last recess of the Senate, which was sent to the Senate on January 5, 2001.

Gregory M. Frazier, of Kansas, to be Chief Agricultural Negotiator, Office of the United States Trade Representative, with the rank of Ambassador, to which position he was appointed during the last recess of the Senate, which was sent to the Senate on January 5, 2001.

Dennis M. Devaney, of Michigan, to be a Member of the United States International Trade Commission for a term expiring December 16, 2009, which was sent to the Senate on January 5, 2001.

Peter F. Romero, of Florida, to be an Assistant Secretary of State (Inter-American Affairs), vice Jeffrey Davidow, to which position he was appointed during the last recess of the Senate, which was sent to the Senate on January 5, 2001.

James F. Dobbins, of New York, to be an Assistant Secretary of State (European Affairs), vice Marc Grossman, resigned, to which position he was appointed during the last recess of the Senate, which was sent to the Senate on January 5, 2001.

Robert Mays Lyford, of Arkansas, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2002, which was sent to the Senate on January 5, 2001.

Miguel D. Lasuèl, of Puerto Rico, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2003, which was sent to the Senate on January 5, 2001.

George Darden, of Georgia, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for the term expiring December 17, 2003, which was sent to the Senate on January 5, 2001.

Anita Perez Ferguson, of California, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring September 20, 2006, which was sent to the Senate on January 5, 2001.

Fred P. DuVal, of Arizona, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring October 6, 2002, which was sent to the Senate on January 5, 2001.

Beth Susan Slavet, of Massachusetts, to be Chairman of the Merit Systems Protection Board, which was sent to the Senate on January 5, 2001.

Barbara J. Sapin, of Maryland, to be a Member of the Merit Systems Protection Board for the term of seven years expiring March 1, 2007, which was sent to the Senate on January 5, 2001.

James H. Atkins, of Arkansas, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring September 25, 2004, to which position he was appointed during the last recess of the Senate, which was sent to the Senate on January 5, 2001.

Sheryl R. Marshall, of Massachusetts, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring October 11, 2002, to which position she was appointed during the last recess of the Senate, which was sent to the Senate on January 5, 2001.

Judith A. Winston, of the District of Columbia, to be Under Secretary of Education, which was sent to the Senate on January 5, 2001.

Shibley Telhami, of Maryland, to be a Member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 2001, to which position he was appointed during the last recess of the Senate, which was sent to the Senate on January 5, 2001.

Dennis P. Walsh, of Maryland, to be a Member of the National Labor Relations Board for the term of five years expiring December 16, 2004.

Edward Correia, of Maryland, to be a Member of the National Council on Disability for a term expiring September 17, 2002, which was sent to the Senate on January 5, 2001.

Gerald S. Segal, of Pennsylvania, to be a Member of the National Council on Disability for a term expiring September 17, 2003, which was sent to the Senate on January 5, 2001.

Ross Edward Eisenbrey, of the District of Columbia, to be a Member of the Occupational Safety and Health Review Commission for a term expiring April 27, 2005, which was sent to the Senate on January 5, 2001.

Toni G. Fay, of New Jersey, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring October 6, 2001, which was sent to the Senate on January 5, 2001.
Paulette H. Holahan, of Louisiana, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2004, which was sent to the Senate on January 5, 2001.

Marilyn Gell Mason, of Florida, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2003, which was sent to the Senate on January 5, 2001.

Donald L. Robinson, of the District of Columbia, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2002, which was sent to the Senate on January 5, 2001.

Hsin-Ming Fung, of California, to be a Member of the National Council on the Arts for a term expiring September 3, 2006, which was sent to the Senate on January 5, 2001.

Nina M. Archabal, of Minnesota, to be a Member of the National Council on the Humanities for a term expiring January 26, 2006, which was sent to the Senate on January 5, 2001.

Betty G. Bengtson, of Washington, to be a Member of the National Council on the Humanities for a term expiring January 26, 2006, which was sent to the Senate on January 5, 2001.

Ron Chew, of Washington, to be a Member of the National Council on the Humanities for a term expiring January 26, 2006, which was sent to the Senate on January 5, 2001.

Bill Duke, of the District of Columbia, to be a Member of the National Council on the Humanities for a term expiring January 26, 2006, which was sent to the Senate on January 5, 2001.

Donald L. Fixico, of Kansas, to be a Member of the National Council on the Humanities for a term expiring January 26, 2004, which was sent to the Senate on January 5, 2001.

Henry Glassie, of Indiana, to be a Member of the National Council on the Humanities for a term expiring January 26, 2006, which was sent to the Senate on January 5, 2001.

Mary D. Hubbard, of Alabama, to be a Member of the National Council on the Humanities for a term expiring January 26, 2004, which was sent to the Senate on January 5, 2001.

Naomi Shihab Nye, of Texas, to be a Member of the National Council on the Humanities for a term expiring January 26, 2006, which was sent to the Senate on January 5, 2001.

Vicki L. Ruiz, of Arizona, to be a Member of the National Council on the Humanities for a term expiring January 26, 2006, which was sent to the Senate on January 5, 2001.

Isabel Carter Stewart, of Illinois, to be a Member of the National Council on the Humanities for a term expiring January 26, 2006, which was sent to the Senate on January 5, 2001.

Allen E. Carrier, of the District of Columbia, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring May 19, 2004, which was sent to the Senate on January 5, 2001.

Jayne G. Fawcett, of Connecticut, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring May 19, 2006, which was sent to the Senate on January 5, 2001.

Timothy Earl Jones, Sr., of Georgia, to be a Commissioner of the United States Parole Commission for a term of six years, which was sent to the Senate on January 5, 2001.

James John Hoecker, of Virginia, to be a Member of the Foreign Claims Settlement Commission of the United States for a term expiring September 30, 2004, which was sent to the Senate on January 5, 2001.

Laramie Faith McNamara, of Virginia, to be a Member of the Foreign Claims Settlement Commission of the United States for a term expiring September 30, 2003, which was sent to the Senate on January 5, 2001.

Edwin A. Levine, of Florida, to be an Assistant Administrator of the Environmental Protection Agency, which was sent to the Senate on January 5, 2001.

J. V. Aidala, of Virginia, to be an Assistant Administrator for Toxic Substances of the Environmental Protection Agency, which was sent to the Senate on January 5, 2001.

John R. Lacey, of Connecticut, to be Chairman of the Foreign Claims Settlement Commission of the United States for a term expiring September 30, 2003, which was sent to the Senate on January 5, 2001.

Kenneth Lee Smith, of Arkansas, to be Assistant Secretary for Fish and Wildlife, Department of the Interior, which was sent to the Senate on January 5, 2001.

James John Hoecker, of Virginia, to be a Member of the Federal Energy Regulatory Commission for the term expiring June 30, 2005, to which position he was appointed during the last recess of the Senate, which was sent to the Senate on January 5, 2001.
Record Votes: One record vote was taken today. (Total—37)

Adjourment: Senate met at 12 noon, and adjourned at 7:17 p.m., until 9:30 a.m., on Tuesday, March 20, 2001. (For Senate’s program, see the remarks of the Acting Majority Leader in today’s Record on page S2530.)

Committee Meetings

NUCLEAR STOCKPILE


HUD FEDERAL HOUSING ADMINISTRATION INSURANCE FUND

Committee on Banking, Housing, and Urban Affairs: Subcommittee on Housing and Transportation concluded hearings to examine the General Accounting Office report on the financial health of the Department of Housing and Urban Development’s Federal Housing Administration Mutual Mortgage Insurance Fund, after receiving testimony from Thomas J. McCool, Managing Director, Financial Markets and Community Investment, General Accounting Office.

House of Representatives

Chamber Action

BillsIntroduced: 8 public bills, H.R. 1088–1095; and 1 resolution, H. Res. 91 were introduced.

Reports Filed: No reports were filed today.

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Whitfield to act as Speaker pro tempore for today.

Senate Messages: Message received from the Senate today appears on page H957.

Referral: S. Con. Res. 25 was referred to the Committee on Armed Services.

Amendments: Amendments ordered printed pursuant to the rule appear on pages H959–60.

Quorum Calls—Votes: No quorum calls or recorded votes developed during the proceedings of the House today.

Adjournment: The House met at 2 p.m. and adjourned at 2:02 p.m.

Committee Meetings

No committee meetings were held.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, p. D214)

H.J. Res. 19, providing for the appointment of Walter E. Massey as a citizen regent of the Board of Regents of the Smithsonian Institution. Signed March 16, 2001. (Public Law 107–4)

COMMITTEE MEETINGS FOR TUESDAY, MARCH 20, 2001

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Armed Services: Subcommittee on Readiness and Management Support, to hold hearings to examine the readiness impact of range encroachment issues, including endangered species and critical habitats; sustainment of the maritime environment; airspace management; urban sprawl; air pollution; unexploded ordnance; and noise, 9:30 a.m., SR–232A.

Committee on Finance: to hold joint hearings with the House Committee on Ways and Means to examine Social Security and Medicare Trustees Reports, 10 a.m., 1100 Longworth Building.

Full Committee, to hold hearings to examine the Jordan Free Trade Agreement, 2:30 p.m., SD–215.

Committee on Foreign Relations: to hold hearings on the nomination of Marc Isaiah Grossman, of Virginia, to be Under Secretary of State (Political Affairs), 10:30 a.m., SD–419.
House

Committee on Appropriations, Subcommittee on Labor, Health and Human Services, and Related Agencies, to continue on public witnesses, 10 a.m., 2358 Rayburn.

Committee on Energy and Commerce, Subcommittee on Energy and Air Quality, oversight hearing on Electricity Markets: California, 2 p.m., 2123 Rayburn.

Committee on Financial Services, Subcommittee on Housing and Community Opportunities, hearing on the Financial Health of the Federal Housing Administration's Single-Family Mutual Mortgage Insurance Fund, 2 p.m., 2128 Rayburn.

Committee on Government Reform, hearing on Six Years After the Enactment of DSHEA: The Status of National and International Dietary Supplement Regulation and Research, 1 p.m., 2154 Rayburn.

Committee on Rules, to consider the following: a resolution providing for Consideration of Motions to Suspend the Rules; and H.R. 247, Tornado Shelters Act, 5:30 p.m., H–313 Capitol.

Committee on Ways and Means, hearing on Medicare Solvency, time to be announced, 1100 Longworth.

Joint Meetings

Joint Meetings: Senate Committee on Finance, to hold joint hearings with the House Committee on Ways and Means to examine Social Security and Medicare Trustees Reports, 10 a.m., 1100 Longworth Building.
Next Meeting of the SENATE
9:30 a.m., Tuesday, March 20

Senate Chamber

Program for Tuesday: Senate will continue consideration of S. 27, Campaign Finance Reform.

(Senate will recess from 12:30 p.m. until 2:15 p.m., for their respective party conferences.)

Next Meeting of the HOUSE OF REPRESENTATIVES
10 a.m., Tuesday, March 20

House Chamber

Program for Tuesday: Consideration of Suspensions:
1. H. Res. 67, Combating tuberculosis and acknowledging its impact on minority populations; and

Extensions of Remarks, as inserted in this issue

HOUSE

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Congressional Record

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