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

DESIGNATION OF SPEAKER PRO TEMPORE

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


I hereby appoint the Honorable John ABNEY CULBERSON to act as Speaker pro tempore on this day.

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

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 3, 2001, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 25 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes, but in no event shall debate extend beyond 9:50 a.m.

The Chair recognizes the gentleman from North Carolina (Mr. COBLE) for 5 minutes.

CANCELLATION OF BLUEGRASS MUSIC BY WAMU

Mr. COBLE. Mr. Speaker, several years ago when I arrived in Washington as a newly elected Congressman and an unabashed bluegrass and country music enthusiast, one of my first non-congressional, self-appointed assignments was to identify the right radio station. WAMU 88.5 was that station.

Ray Davis and Jerry Gray, genial down-home hosts, escorted us through bluegrass country Monday through Friday. At that time the bluegrass program, as I recall, was aired from noon until 6 p.m. That time slot subsequently was reduced by half running them from 3 until 6 p.m. I did not take umbrage with this change and concluded it was not unreasonable. Six hours is, after all, a formidable block of time and reducing it to 3 hours appeared to be a fair compromise.

The recent heavy-handed action taken by WAMU is neither fair nor a compromise; and as I told a Washington Post reporter recently, as we say in the rural South, I am hopping mad about it.

The powers that be at WAMU have eliminated the Monday through Friday bluegrass that we so much enjoyed with Ray Davis and Jerry Gray. What were 3 hours of bliss have become 3 hours of painful silence; and it appears this silencing exercise was executed abruptly, with precision and with no advanced warning.

Were Ray Davis and Jerry Gray afforded the courtesy of saying good-bye to their host of loyal listeners? Obviously not.

I am told that now in the D.C. listening area we have two giants of public radio both supported by taxpayers, presumably tax exempt, broadcasting identical programs an hour apart and both broadcasting these programs twice to captive drive-time audiences. What became of diversity, the commodity so frequently promoted by public radio?

Many listeners of WAMU have contacted me about this matter and most of these listeners are versatile in their musical tastes. They enjoy bluegrass and country, as do I, but they enjoy the classics as well, as do I. But the WAMU decision-makers have made the former more difficult to receive than the latter. We no longer hear Earl Scruggs, ably backed by Lester Flatt and the Foggy Mountain Boys as he plays the Flint Hill Special. During December's yuletide season, the Monday through Friday bluegrass fans will be deprived of Christmas 'Time A Comin' by Bill Monroe and the Bluegrass Boys or the Country Gentlemen's version of Back Home at Christmas Time.

We, the Monday through Friday group, will have to make adjustments. As a member of Congress, I have consistently contributed to WAMU's various campaigns. I may have to direct my future contributions elsewhere because I do not appreciate the manner in which it appears WAMU terminated the Monday through Friday bluegrass programs.

Ray Davis and Jerry Gray deserve better. WAMU's listeners deserve better. These listeners, by the way, are intensely loyal. So WAMU may be pursuing a volatile course.

Again, Mr. Speaker, drawing from my days in the rural South, when youngsters misbehaved they were taken to the woodshed. You know, perhaps the WAMU management team members need to be introduced to the woodshed. For it is my belief they have misbehaved to the detriment of many innocent observers.

A BAD OMEN

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Texas (Mr. PAUL) is recognized during morning hour debates for 5 minutes.

Mr. PAUL. Mr. Speaker, the trial of Slobadon Milosevic threatens U.S. sovereignty. The fact that this trial can be carried out, in the name of international justice, should cause all the Americans to cast a wary eye on the whole principal of the U.N. War Crimes Tribunal. The prosecution of Milosevic, a democratically elected and properly
disposed leader of a sovereign country, could not be carried out without full U.S. military and financial support. Since we are the only world superpower, the U.N. court becomes our court under our control. But it is naive to believe that superpower status will last forever. The precedence now being set will 1 day surely come back to haunt us.

The U.S. today may enjoy dictating policy to Yugoslavia and elsewhere around the world, but danger lurks ahead. The administration adamently and correctly opposes our membership in the permanent International Criminal Court because it would have authority to exercise jurisdiction over U.S. citizens without the consent of the U.S. government. But how can we, with a straight face, support doing the very thing to a small country, in opposition to its sovereignty, courts, and constitution. This blatant inconsistent use of force will not go unnoticed and will sow the seeds of future terrorist attacks against Americans or even war.

Money, as usual, is behind the Milosevic operation. Brigitte Serbian Prime Minister Zoran Djindjic, a U.S.-sponsored leader, prompted strong opposition from Yugoslavian Prime Minister Zoran Zizic and Yugoslavian President Vojislav Kostunica. A Belgrade historian, Aleksa Djilas, was quoted in The New York Times as saying: “We sold him for money, and we won’t really get very much money for it. The U.S. is the natural leader of the world, but how does it lead? This justifies the worst American instincts, reinforcing this bullying mentality.”

Milosevic obviously is no saint but neither are the leader of the Croats, the Albanians or the KLA. The NATO leaders who vastly expanded the death and destruction in Yugoslavia with 78 days of bombing in 1999 are certainly not blameless. The $1.28 billion promised the puppet Yugoslavian government is to be used to rebuild the cities devastated by NATO bombs. First, the American people are forced to pay to bomb, to kill innocent people and destroy cities, and then they are forced to pay to repair the destruction, while orchestrating a U.N. kangaroo court to bring the guilty to justice at the Hague.

For all this to be accepted, the press and internationalists have had to demonize Milosevic to distance themselves from the horrors of others including NATO.

NATO’s air strikes assisted the KLA in cleansing Kosovo of Serbs in the name of assisting Albanian freedom fighters. No one should be surprised when that logic is interpreted to mean tacit approval for Albanian expansionism in Macedonia. While terrorist attacks by former members of the KLA against Serbs are ignored, the trial of the new millennium, the trial of Milosevic, enjoys daily support from the NATO-U.S. propaganda machine.

In our effort to stop an independent-minded and uncooperative with the international community president of a sovereign country, U.S. policy was designed to support an equally if not worse organization, the KLA.

One of the conditions for ending the civil war in Kosovo was the disbanding of the KLA and very same ruthless leaders of the KLA, now the Liberation Army of Presovo, are now leading the insurrection in Macedonia without NATO lifting a finger to stop it. NATO’s failed policy that precipitated the conflict now raging in Macedonia is ignored.

The U.N. War Tribunal in the Hague should insult the intelligence of all Americans. This court currently can only achieve arrest and prosecution of leaders of poor, small, or defeated nations. There will be no war criminals brought to the Hague from China, Russia, Britain, or the United States no matter what the charges. But some day this approach to world governing will backfire. The U.S. already has suffered the humiliation of being kicked off the U.N. Human Rights Commission and the Narcotics Control Commission. Our arrogant policy and attitude of superiority will continue to elicit a smoldering hatred toward us and out of sheer frustration will motivate even more terrorist attacks against us.

Realizing the weakness of the charges against Milosevic the court has quietly dropped the charges for committing genocide. In a real trial, evidence that the British and the United States were complicit with Milosevic would be permitted. But almost always, whoever is our current most hated enemy, has received help and assistance from us in the past. This was certainly the case with Noriega and Saddam Hussein and others, and now it’s Milosevic.

Milosevic will be tried not before a jury of his peers but before a panel of politically appointed judges, all of whom were approved by the NATO countries, the same countries which illegally bombed Yugoslavia for 2½ months. Under both U.N. and international law the bombing of Serbia and Kosovo was illegal. This was why NATO pursued it and it was not done under a U.N. resolution.

Ironically, the mess in which we’ve been engaged in Yugoslavia has the international establishment supporting the side of Kosovo independence rather than Serbian sovereignty. The principle of independence and secession of smaller government entities has been enhanced by the breakdown of the Soviet system. If there’s any hope that any good could come of this nightmare in the Balkans as it is rapidly sinking in the Balkans, it is that small independent nations are a viable and reasonable option to conflicts around the world. But the tragedy today is that no government is allowed to exist without the blessing of the One World Government leaders. The disobedience to the one worlders and true independence is not to be tolerated. That’s what this trial is all about. “Tow the line or else,” is the message that is being sent to the world.

NATO and U.S. leaders insist on playing with fire, not fully understanding the significance of the events now transpiring in the Balkans. If policy is not quickly reversed, events could get out of control and a major war in the region will erupt.

We should fear and condemn any effort to escalate the conflict with troops or money from any outside sources. Our troops are already involved and our money calls the shots. Exercising ourselves will get more difficult every day we stay. But the sooner we get out the better. We should be listening more to candidate George Bush’s suggestion during the last campaign for bringing our troops home from this region.

The Serbs, despite NATO’s propaganda, will not lightly accept the imprisonment of their democratically elected (and properly disposed) president no matter how bad he was. It is their problem to deal with and a resentment against us will surely grow as conditions deteriorate. Mobs have already attacked the American ambassador to Macedonia for our inept interference in the region. Death of American citizens are sure to come if we persist in this failed policy.

Money and power has permitted the United States the luxury of dictating terms for Milosevic’s prosecution, but our policy of arbitrary interventions in the Balkans is sowing the seeds of tomorrow’s war.

We cannot have it both ways. We cannot expect to use the International Criminal Tribunal for Yugoslavia when it pleases us and oppose the permanent International Criminal Court where the rules would apply to our own citizens. This cynical and arrogant approach, whether it’s dealing with Milosevic, Hussein, or Kadafi, undermines peace and presents a threat to our national security.

Meanwhile, American citizens must suffer the tax burden from financing the dangerous meddlings in European affairs, while exposing our troops to danger.

A policy of nonintervention, friendship and neutrality with all nations, engagement in true free trade (unsubsidized trade with low tariffs) is the best policy if we truly seek peace around the world. That used to be the American way.

INTRODUCTION OF LOWER LOS ANGELES RIVER AND SAN GABRIEL RIVER WATERSHEDS STUDY ACT OF 2001

The SPEAKER pro tempore. Under the Speaker’s announced policy of January 3, 2001, the gentlewoman from California (Ms. SOLIS) is recognized during morning hour debates for 5 minutes.

Ms. SOLIS. Mr. Speaker, today I rise to bring forward legislation that I want to introduce regarding the Lower Los Angeles River and the San Gabriel River Watershed Study Act of 2001.

Mr. Speaker, I grew up in the shadow of one of the largest landfills in the country, communities exposed to high levels of smog, and one of the largest Superfund sites in the region. All this has inspired my passion to preserve our remnants of open space.

Today, children in my district are still living next to this landfill, and their playgrounds are often small concrete slabs with little green space. With this knowledge, today I introduce the Lower Los Angeles River and San Gabriel River Watershed Study Act of 2001. The bill will study the Lower Los Angeles River and the San Gabriel
River and portions of the San Gabriel Mountains for potential inclusion in the National Parks Service system.

The bill will direct the National Park Service to study the area and its natural, historic, scenic, recreational, and national values.

If deemed appropriate, I plan to introduce a bill that will officially designate the area. Thus, laying the groundwork for open space preservation, environmental revitalization, curbing urban sprawl, and providing opportunities for communities of color the option of experiencing more than car horns and3, and scarifiers.

Currently, there are only five national recreation areas near urban centers. Such urban parks combine scarce spaces with the preservation of significant historic resources and important natural areas in locations that can provide outdoor recreation for large numbers of people. The population growth in California, as you know, is projected to double over the next 40 years. It is of critical importance to plan for the future of open space.

Study after study find that open space creates high property values, more community-oriented events, and safer streets for our families. It is estimated that there are less than one-half acre square space per 1,000 residents in low-income areas, and up to 1.7 acres in West Los Angeles. Yet, three to four acres of open space per 1,000 residents is what is recommended by our Park Service.

After the 1992 riots in Los Angeles, nearly 77 percent of neighborhood residents who answered did not have green space for their families. The San Gabriel Valley has the capability for success in accomplishing this.
hustling of these improper tax avoidance schemes is so commonplace that the representative of one major Texas-based multinational indicated that he gets a cold call every day from someone hawking such shelters.

As Stefan Tucker, former Chair of the American Bar Association Tax Section, a group comprised of 20,000 tax lawyers across the country, told the Senate Finance Committee: “[T]he concerns being voiced about corporate tax shelters are very real; these concerns are not hollow or misplaced, as some would assert. We deal with corporate and other major taxpayer clients every day who are bombarded, on a regular and continuous basis, with ideas or ‘products’ of questionable merit.”

Two years later, we have this sequel from Forbes which raises the question, “How to cheat on your taxes?” It concludes that the marketing of push-the-edge and over-the-edge tax shelters “represents not only a threat to the integrity of the decline in [tax] compliance” in our country today. The “outrageous shelters” that it reports about in its cover story are literally “tearing this country’s tax system apart.” It raises the question that more and more tax payers are asking: “Am I a chump for paying what I owe?”

Here is basically what this bill seeks to do: First, it seeks to stop these schemes that have no “economic substance.” That is, deals that are done not to achieve economic gain in a competitive marketplace or for other legitimate business reasons but to generate losses that offer a way to avoid the tax collector.

Second, it prevents tax cheats from buying the equivalent of a “get-out-of-jail-free” card to protect themselves in the unlikely event that they get caught. Some fancy legal opinion cannot be used as insurance against penalties for tax underpayments on transactions that have no economic substance.

Third, the bill increases and tightens penalties for tax dodging so that there is at least some downside risk to cheating.

Fourth, it requires the promoters and hustlers who market tax shelters to share a little of the penalty themselves with the offending taxpayer.

Fifth, it punishes the lawyers who write “penalty insurance” opinions that any reasonable person would know are unjustified.

Sixth, it penalizes those who fail to follow the disclosure rules. It recognizes that too often secrecy is the growth hormone for these complex tax cheating shelter gimmicks.

Seventh, it expands the types of tax shelters that must be registered with the IRS, thereby facilitating tax enforcement.

Finally, it targets a few of what some might view as “attractive nuisances.” That is, tax code provisions that are particularly subject to manipulation and misuse.

Battling these shelters one at a time, through years of costly litigation, has not prevented the steady growth in abusive practices. Indeed, the creativity and speed with which new and more complicated tax shelters are devised is remarkable. Following judicial acquittal and advances in tax shelters are repackaged and remarkekted with creative titles like sequels to bad movies.

One type of gimmickery, called LILO, has been used by an American company, which rents a Swiss town hall, not for any gathering, but only to rent it immediately back to the Swiss. The corporation takes a deduction from current taxable income for the total rental expense, while deferring income from its “re-rental” until far into the future. Within months of Treasury shutting down such abusive LILO transactions, products were soon being sold as the “Son of LILO,” with only a modicum of difference from the previous version.

I have modified this legislation to take into account the comments that were raised at a November 1999 Committee on Ways and Means hearing. I have incorporated recommendations from leaders of the Senate Finance Committee last year. This bill has been carefully designed to curtail egregious behavior without impacting legitimate business deals.

Most of these refinements have had a very plain purpose: eliminate the excuse for inaction. This bill should now be acceptable to everyone but most blatant shelter hustlers. But that may not be the case.

Treasury Secretary Paul O’Neill recently gave an interview to a London newspaper in which he favored eliminating corporate tax shelters. If that is the ultimate objective, if he just waits and maintains the same attitude of indifference in the face of rapidly proliferating shelter schemes it may eventually be accomplished. This will leave just a few “corporate chumps” paying anything close to their fair share.

Most taxpayers realize that if someone in the corporate towers or just down the street is not paying their fair share, you and I, and the others who play by the rules, must pay more to pick up the slack. And that slack, that loss of revenue to abusive tax shelters, is not estimated to exceed $10 billion per year.

And that lost revenue could be put to better use. The bipartisan leaders of the managed care reform bill in the last Congress relied upon this proposal to offset any reduced federal revenues associated with adopting the Patients Bill of Rights. Although blocked procedurally, Representative CHARLIE NORWOOD (R-GA) got it right in telling the House Rules Committee, “There is a large difference in what you call a tax increase and stopping bogus tax shelters. That is really two different things. They aren’t just asking them to pay more taxes, we are trying to keep them from cheating the system.”

Today, we sponsors of this legislation offer a constructive way of correcting abusive tax shelters, described by former Treasury Secretary Larry Summers as “the management issue threatening the American tax system.” Battling corporate tax cheats is not a partisan issue, it is a question of fundamental fairness. This Congress should promptly respond.

TECHNICAL EXPLANATION OF H.R. THE “ABUSIVE TAX SHELTER SHUTDOWN ACT OF 2001”

TITLE I—CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE (SEC. 101)

PRESENT LAW

In general

The Internal Revenue Code (“Code”) provides specific rules regarding the computation of taxable income, including the amount, timing, and character of items of income, gain, loss and deduction. These rules are designed to provide for the computation of taxable income in a manner that provides for a degree of specificity to both taxpayers and the government. Taxpayers generally may plan their transactions in reliance on these rules to determine the federal income tax consequences arising from the transactions.

Notwithstanding the presence of these rules for determining tax liability, the claimed tax results of a particular transaction may be challenged by the Secretary of the Treasury. For example, the Code grants the Secretary various authority to challenge tax results that would result in an abuse of the rules or the avoidance of tax (Secs. 266, 466, 482, 7701(l)). Further, the Secretary can challenge a tax result by applying the so-called “economic substance doctrine.” This doctrine has been applied by the courts to deny unwarranted and unintended tax benefits in transactions whose undertaking does not result in a meaningful change to the taxpayer’s economic position other than a purported reduction in federal income tax. Closely related doctrines are applied by the courts (sometimes interchangeable with the economic substance doctrine) to determine the so-called “sham transaction doctrine” and the “business purpose doctrine.” (See, for example, Kretsing v. United States, 369 U.S. 361 (1962) (denying interest in a so-called sham transaction” whose only purpose was to create the deductions.) Also, the Secretary can argue that the substance of a transaction is different from the form in which the taxpayer has structured and reported the transaction and therefore, the taxpayer applied the improper rules to determine the tax consequences. In that case, the Secretary may invoke the “step-transaction doctrine” to treat a series of formally separate “steps” as a single transaction if the steps are integrated, interdependent, and focused on a particular result.

Economic substance doctrine

The economic substance doctrine is a common law doctrine denying tax benefits in transactions which, apart from their claimed tax benefits, have little economic significance.

The seminal authority for the economic substance doctrine is the Supreme Court and Second Circuit decisions in Gregory v. Helvering (293 U.S. 465 (1935), aff’d 69 F.2d 809 (2d Cir. 1934). In that case, a transitory substation was used to evade the advantaged distribution form a corporation. Notwithstanding that the transaction satisfied...
the literal definition of a tax-free reorganization, the courts denied the intended ben-

efits of the transactions, stating: “The purpose of the [reorganization] section is plain

enough — [it] engages in enterprises—industrial, commercial, financial, or an

other—might wish to consolidate, or di-

vide, to add to, or subtract from their hold-

ings. These were not to be considered ‘realizing’ and profit, because the collective

interests still remained in solution.

But the underlying presupposition is plain: the transaction shall be undertaken

taken for reasons germane to the conduct of

the venture in hand, not as an ephemeral in-
cident in the prospector’s prospectus.

To dodge the shareholder’s taxes is not one

of the transactions contemplated as corporate

‘reorganizations’. (89 F.2d at 811).

The substance doctrine was applied in the case of Goldstein v. Commissioner (364 F.2d 734 (2d Cir. 1966)) involving a tax-
payer who borrowed to acquire Treasury se-
curities. Under the law then in effect, she

was able to deduct a substantial amount of

prepaid interest. Notwithstanding that the Cod

e allowed a deduction for the prepaid in-

terest, the Court disallowed the deduction

stating: “this provision [sec. 163(a)] should

not be construed to permit an interest de-

duction unless there was a reasonable expecta-

tion . . . A rational relationship between pur-

pose of the transaction, and (2) the transac-

tion lacks economic substance (Rice’s Toyota

World, 752 F.2d 89, 91 (1985)). In essence a transac-

tion will be respected as having economic sub-

stance or encouraged by busi-

ness or regulatory realities, is imbued with tax-

dependent consideration, and is not exposed to administrative scrutiny that would

have meaningless label attached.” (Frank Lyon Co. v. Commissioner, 435 U.S. 561 (1978)).

EXPLANATION OF PROVISION

In general

Under the bill, the economic substance doctrine is made uniform and is enhanced. The bill

provides that in applying the eco-

nomics doctrine, a transaction will be treated as having economic substance only if it has a mean-

ingful way (apart from Federal income tax consequences) the taxpayer’s economic posi-

tion, and the transaction has a substantial tax purpose reasonably accomplished by the transac-

tion. This aspect of the bill clarifies the judicial application of the economic substance doctrine and

would overtime the results in certain court cases, such as the result in IES Industries (see above).

The bill provides that if a profit po-

ential is relied on to demonstrate that a transaction results in a meaningful change in

economic position (and therefore has eco-


costs and foreign taxes are
disallowed noneconomic tax attributes.

The bill also provides special rules for

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ential is relied on to demonstrate that a transaction results in a meaningful change in

economic position (and therefore has eco-


cial purpose.

Except as the bill otherwise specifically

provides, judicial doctrines disallowing tax benefits for lack of economic substance, business purpose, or similar reasons will con-

inue to apply as under present law.

Transactions with tax-indifferent parties

The bill also provides special rules for transac-

tions with tax-indifferent parties. For this purpose, a tax-indifferent party means any individual or entity not meaning to Federal income tax, or any person to whom an item would have no substantial impact on its income tax liability, for example, by rea-

sons of its method of accounting (such as a mark-to-market).

Under these rules, the form of a financing transaction will not be respected if the present value of the tax de-


The bill makes several modifications to

the substantial understatement penalty.

First, the bill treats an understatement as

substantial if it exceeds $500,000, regardless of

whether it exceeds 10 percent of the tax-
payer’s total tax liability. Second, the bill

treats tax shelters of nonprofit taxpayers the same as the present law treatment of tax shelters and the substantial understatement penalty from the penalty for substantial authority (under section 6662(b)(2)(B)(i)) will not apply.
Third, the bill provides that the determination of the amount of underpayment shall not be less than the amount that would be determined if the items not attributable to a tax shelter were disallowed. If the transaction were treated as a tax shelter, the items not attributable to the tax shelter would be disallowed. The increased penalty applies with respect to any inter- 

taxpayer prior to a final determination with respect to the tax return. The promoter independent of the taxpayer’s interest in any potential participant and for which the person expects to receive a disallowance of noneconomic tax attributes (as described in section 6701). There is no statute of limitations on the assessment of a penalty under section 6701 (Capozzi v. Commissioner, 980 F.2d 872 (2nd Cir. 1992); Lamb v. Commissioner, 977 F.2d 1266 (8th Cir. 1992)).

EXPLANATION OF PROVISION

The bill imposes a penalty on any substan- 
tial promoter of a tax avoidance strategy if the strategy fails to satisfy any of the judicial doctrines that may be applied in the disallowance of noneconomic tax attributes (as described in section 201 of the bill). A tax avoidance strategy means any entity, plan, arrangement, or transaction that is designated in regulations as a tax shelter (sec. 201(a)). A potentially abusive tax shelter or who sells an interest in such a shelter (as defined in section 6112) to any material participant arising from any material matter arising from the transaction (or, if greater, $100,000). If the failure to disclose relates to a listed transaction (or a substantially similar transaction) that is in addition to any other penalty provided for in subsection (a) or (b). The increased penalty applies to transactions that are (or substantially similar to) tax avoidance transactions the IRS has identified in published guidance (a ‘listed transaction’). The first category covers transactions that are the same as (or substantially similar to) tax avoidance transactions the IRS has identified in published guidance (a ‘listed transaction’) and that are expected to reduce a corporation’s income tax liability by more than $1 million in any year or by more than $10 million for any one combination of years. The second category covers transactions that are expected to reduce a corporation’s income tax liability by more than $1 million in any year or $10 million for any one combination of years and that exhibit at least two of six enumerated characteristics. There is no penalty for failing to ade- 
quately disclose a reportable transaction. However, the nondisclosure could indicate the taxpayer’s expectation of a ‘good faith’ with respect to the underpayment. (T.D.8877)

EXPLANATION OF PROVISION

The bill imposes a penalty for the failure to maintain investor lists in connection with the sale of interests in a tax shelter (as defined in section 6882(d)(2)(C)(iii)) or in any partnership, entity, plan, or arrangement that involves the disallowance of a non-economic tax attribute (as described in section 201 of the bill). In these cases, the penalty is imposed with respect to the underpayment. (T.D.8877)

EXPLANATION OF PROVISION

The bill modifies the aiding and abetting penalty as it relates to any person who offers an opinion regarding the treatment of an item attributable to a tax shelter or any other transaction involving a noneconomic tax attribute. (See Section 6011). In February 2000, the Treasury Department issued temporary and proposed regulations under section 6011 that require corporate taxpayers to include in their tax return information with respect to certain large transactions with characteristics that may be indicative of tax shelter activity.

Specifically, the regulations require the disclosure of information with respect to ‘reportable transactions.” There are two categories of reportable transactions. The first category covers transactions that are the same as (or substantially similar to) tax avoidance transactions the IRS has identified in published guidance (a ‘listed transaction’). The second category covers transactions that are expected to reduce a corporation’s income tax liability by more than $1 million in any year or by more than $10 million for any one combination of years. (Treas. Reg. sec. 1.6011-4T(b)(2) and –(b)(4)). There is no penalty for failing to ade- 
quately disclose a reportable transaction. However, the nondisclosure could indicate the taxpayer’s expectation of a ‘good faith’ with respect to the underpayment. (T.D.8877)
The provision applies to transactions entered into after date of enactment.

6. Registration of certain tax shelters offered to non-corporate participants (sec. 206)

PRESENT LAW
A promoter of a confidential corporate tax shelter is required to register the tax shelter with the IRS (sec. 6111(d)). Registration is required not later than the next business day after the tax shelter is first offered to potential users. For this purpose, a confidential corporate tax shelter includes any entity, plan, arrangement or transaction (1) a significant aspect of which is the avoidance or evasion of Federal income tax for a direct or indirect participant that is a corporation, (2) that is offered to any potential participant under conditions of confidentiality, and (3) for which the tax shelter promoters may receive aggregate fees in excess of $100,000.

The penalty for failing to timely register a confidential corporate tax shelter is the greater of $10,000 or 50 percent of the fees payable to any promoter with respect to offering the tax shelter unless due to reasonable cause (sec. 6709(a)(3)). Intentional disregard of the requirement to register increases the 50-percent penalty to 75 percent of the applicable fees.

EXPLANATION OF PROVISION
The bill deletes the requirement that a direct or indirect participant must be a corporation. Thus, the provision extends the present-law registration requirements to include a promoter of any confidential tax shelter (regardless of the participant). The penalty for failing to timely register a confidential tax shelter remains unchanged (i.e., the greater of $10,000 or 50 percent of the fees payable to any promoter with respect to offerings prior to the due date of late registration).

EFFECTIVE DATE
The provision applies to any tax shelter interest that is offered to potential participants after the date of enactment.

TITLE III
LIMITATION ON IMPORTATION AND TRANSFER OF BUILT-IN LOSSES
1. Limitation on importation of built-in losses (sec. 301)

PRESENT LAW
Under present law, the basis of property received by a corporation in a tax-free incorporation, reorganization, or liquidation of a subsidiary corporation is the same as the adjusted basis in the hands of the transferor, adjusted for gain or loss recognized by the transferor. If a person or entity that is not subject to U.S. income tax transfers property with an adjusted basis higher than its fair market value to a corporation that is subject to U.S. income tax, the "built-in" loss would be imported into the U.S. tax system, and the transferee corporation would be able to recognize the loss in computing its U.S. income tax.

EXPLANATION OF PROVISION
The bill provides that if a net built-in loss is imported into the U.S. in a tax-free organization or reorganization from persons not subject to U.S. tax, the basis of all properties so transferred will be their fair market value. A similar rule will apply in the case of the tax-free liquidation by a domestic corporation of an existing partnership.

Under the bill, a net built-in loss is considered imported into the U.S. if the aggregate adjusted bases of property received by a transferee corporation subject to U.S. tax from persons not subject to U.S. tax with respect to the property exceeds the fair market value of the property. For example, if in a tax-free incorporation, some properties are received by a corporation from U.S. persons whose properties are relieved from foreign persons not subject to U.S. tax, this provision applies to the aggregated properties relieved from the foreign persons. In the case of a partnership (either domestic or foreign), this provision applies as if the properties had been transferred by each of the partners in proportion to their interests in the partnership.

EFFECTIVE DATE
The provision applies to transactions after the date of enactment.

2. Disallowance of partnership loss transfers (sec. 302)

PRESENT LAW
Contributions of property
Under present law, if a partner contributes property to a partnership, generally no gain or loss is recognized to the contributing partner at the time of contribution (Sec. 721). The partnership takes the property at an adjusted basis equal to the contributing partner's adjusted basis (Sec. 723). The contributing partner increases its basis in its partnership interest by the adjusted basis of the contributed property (Sec. 705). Any item of income, gain, loss and deduction with respect to the contributed property is allocated among the partners to take into account any built-in gain or loss at the time of the contribution (Sec. 704(c)(1)(A)). This rule is intended to prevent the transfer of built-in gain or loss from the contributing partner to the other partners without recognizing it in the noncontributing partners based on the value of their contributions and by allocating to the contributing partner the remainder of each item. (Note: where there is an insufficient amount of an item to allocate to the noncontributing partners, Treasury regulations allow for reasonable allocations to remedy this insufficiency. Treas. Reg. sec. 1-704(c)(1)(d)).

If the contributing partner transfers its partnership interest, the built-in gain or loss would be recognized by other partners within the partnership if it would have been allocated to the contributing partner (Treas. Reg. sec. 1-704-3(a)(7)). If the contributed property is liquidated, there is no specific guidance preventing the allocation of the built-in loss to the remaining partners. Thus, it appears that losses "transferred" to other partners where the contributing partner no longer remains a partner.

Transfers of partnership interests
Under present law, a partnership does not adjust the basis of partnership property following the transfer of a partnership interest unless the partnership has made a one-time election under section 754 to make basis adjustments (Sec. 754). Section 754 is ineffective, however, to the extent the adjusted basis of the distributed properties increases (or loss is recognized) the partnership's adjusted basis in its properties is increased by a like amount. The penalty for failure to disclose information to the extent the adjusted basis of the distributed properties decreases (or gain is recognized), the partnership's adjusted basis in its properties is increased by a like amount. Under these rules, a partnership with no election in effect under section 754 may distribute property with an adjusted basis greater than the distributee partner's proportionate share of the adjusted basis of all partnership property and leave the remaining partners with a smaller net built-in gain or a larger net built-in loss than before the distribution.

DESCRIPTION OF PROVISION
Contributions of property
Under the bill, a built-in loss may be taken into account only by the contributing partner and not by other partners. In addition, the bill provides in regulations, in determining the amount of items allocated to partners other than the contributing partner, the basis of the distributed properties is determined as the fair market value on the date of contribution. Thus, if the contributing partner's proportionate share of the distributed properties is liquidated, the partnership's adjusted basis in the property will be based on its fair market value at the date of contribution, and the built-in loss will be eliminated. (Note: it is intended that a corporation succeeding to attributes of the contributing corporate partner under section 361 shall be treated in the same manner as the contributing partner).

Transfers of partnership interests
The bill provides that the basis adjustment rules under section 754 will be required in the case of the transfer of a partnership interest with respect to which there is a substantial built-in loss. For this purpose, a substantial built-in loss exists where the transferee partner's proportionate share of the adjusted basis of the partner's adjusted basis exceeds 10 percent of the transferee partner's basis in the partnership interest in the partnership. Thus, for example, assume that partner A has a 10 percent interest in the partnership interest in the partnership with a fair market value of $100. Also assume that B's proportionate share of the adjusted basis of the partnership assets is $120. Under the bill, if partner A sells his interest to partner B, the $20 decrease in the adjusted basis of the partnership assets with respect to B, so that B

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would recognize no gain or loss if the partnership immediately sold all of its assets for their fair market value.

Distribution of partnership property

The bill provides that the basis adjustment (if any) was good in the case of a distribution with respect to which there is a substantial basis reduction. A substantial basis reduction means a downward adjustment to the partnership assets (had a section 754 election been in effect) greater than 10 percent of the adjusted basis of the assets.

Thus, for example, assume that A and B each contributed $25 to a newly formed partnership and C contributed $50 and that the partnership purchased LMN stock for $30 and XYZ stock for $70. Assume that the value of each stock declined to $10. Assume LMN stock is distributed to C in liquidation of its partnership interest. As under present law, the basis of LMN stock in C's hands if $50. C would recognize a loss of $40 if the LMN stock were sold for $10.

Under the bill, there is a substantial basis adjustment because the $20 increase in the adjusted basis of asset 1 (sec. 734(b)(2)(B)) is greater than 10 percent of the adjusted basis of the asset. Thus, for example, assume that A and B each contributed $25 to a newly formed partnership and C contributed $50 and that the partnership purchased LMN stock for $30 and XYZ stock for $70. Assume that the value of each stock declined to $10. Assume LMN stock is distributed to C in liquidation of its partnership interest. As under present law, the basis of LMN stock in C's hands if $50. C would recognize a loss of $40 if the LMN stock were sold for $10.

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The SPEAKER pro tempore. The Chair has examined the Journal of the last day’s proceedings and announces to the House his approval thereof. Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

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

Mr. GIBBONS 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.

WELCOME TO RABBI MITCHELL WOHLBERG

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

Mr. CARDIN. Mr. Speaker, I feel privileged to know Rabbi Mitchell Wohlberg. Since 1978, he has been the spiritual leader of Beth Tfiloh Congregation, the largest Orthodox Jewish congregation in Baltimore, the congregation of which I am a member.

Let me tell the Members a little bit about Rabbi Wohlberg. I have known Rabbi Wohlberg for many years and have often sought his guidance and counsel. He is an inspirational speaker, and is famous for his thoughtful sermons that are able to clarify complicated issues.

Rabbi Wohlberg is also known for his involvement in the Jewish communal life. He has been a board member at The Associated Jewish Community Federation of Baltimore; a member of the executive committee of the Rabbinical Council of America, and is a recipient of the humanitarian award for the Louis Z. Brandeis District of the ZOA.

He comes from a committed and unique family where his father (of blessed memory) was and his two brothers were and also are Rabbis, all ordained by the Yeshiva University. Rabbi Wohlberg is a driving force behind the Beth Tfiloh School, an outstanding Jewish day school in Baltimore.

I know all my colleagues will join me in thanking Rabbi Wohlberg for offering this morning’s opening prayer.
H.R. 807
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress
assembled,
SEC. 1. SATISFACTION OF CLAIM.
(a) In GENERAL.—The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to Rabon Lowry or Pembroke Machine Company, individually and as president of Pembroke Machine Company, Inc., the sum of $1,000,000 for damages he incurred as a result of a breach of Government Contract number DAAA09-85-C-0650 by the Department of the Army.
(b) CONDITIONS OF PAYMENT.—The payment shall be in full satisfaction of any claims Rabon Lowry or Pembroke Machine Company may have against the United States arising from Government Contract number DAAA09-85-C-0650.

SEC. 2. LIMITATION ON AGENTS AND ATTORNEYS FEES.
It shall be unlawful for an amount that exceeds 10 percent of the sum described in section 1 to be paid to or received by any agent or attorney for any service rendered in connection with the benefits provided by this Act. Any person who violates this section shall be guilty of an infraction and shall be subject to a fine in the amount provided in title 18, United States Code.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE.
The SPEAKER pro tempore. The Chair would advise the Members that when addressing the House, remarks should be addressed to the Speaker, not to a member of the Executive Branch or a Member of the Senate.

APPLAUDING SNOWFLAKES ADOPTION PROGRAM FOR GIVING EMBRYOS A CHANCE AT LIFE.
(Mr. RYUN of Kansas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)
Mr. RYUN of Kansas. Mr. Speaker, many of my colleagues have recently called for Federal funding to destroy human embryos for research. They cite the fact that stem cells obtained from these embryos could give life. They are forgetting two vital facts: One, we will be acquired from adults; and two, these human embryos are life and deserve our care and protection.
There are thousands of embryos in existence, each one waiting in what some called frozen orphanages for a chance at life. For them, I support alternatives that do not destroy them, alternatives like Snowflake Adoption Program.
Embryo adoption affirms life while providing a family the opportunity to welcome a child into their family. Some say these human embryos can give life, if only we could use Federal funds to destroy them.
We must remember that these embryos are already life, and I applaud the Snowflakes Adoption Program for giving many of them a chance.

ENERGY SECURITY ACT WILL DIVERSIFY OUR SUPPLY.
(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)
Mr. GIBBONS. Mr. Speaker, no one can argue and no one can deny that the skyrocketing oil and gas prices and the rolling blackouts throughout the West do demonstrate the critical need to increase and diversify our energy production.
Alternative fuels, such as wind and solar energy, can produce the energy of that future. Abundant on our public lands, these resources are clean alternatives that can be produced with minimal environmental impact and no emissions.
In fact, every time we use these fuels, we actually reduce emissions by minimizing the need to burn oil and coal to produce the same amount of energy otherwise.
Alternative energies are highly abundant on our public lands, especially in my home State, Nevada, which boasts the highest amount of geothermal resources in the Nation. The development of geothermal and other alternative energies will provide Americans with an additional clean energy supply that will help in lowering the prices and reducing our dependence on foreign sources.
The Energy Security Act recognizes the potential of alternative fuels, and provides the opportunity to finally develop these clean energy resources on our public lands.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE.
The SPEAKER pro tempore. Pursuant to clause 8, rule XX, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.
Any record votes on postponed questions will be taken later today.

HONORING PAUL D. COVERDELL.
Mr. HYDE. Mr. Speaker. I move to suspend the rules and pass the Senate bill (S. 360) to honor Paul D. Coverdell. The Clerk read as follows:
S. 360
Be it enacted by the Senate and House of Rep-
resentatives of the United States of America in
Congress assembled.

SECTION 1. PEACE CORPS HEADQUARTERS.
(a) In GENERAL.—Effective on the date of enactment of this Act, the headquarters of the Peace Corps, wherever situated, shall be referred to as the “Paul D. Coverdell Peace Corps Headquarters”.

SECTION 2. WORLD WISE SCHOOLS PROGRAM.
Section 603 of the Paul D. Coverdell World Wise Schools Act of 2000 (title VI of Public Law 106-570) is amended by adding at the end the following new subsection:
(c) NEW REFERENCES IN PEACE CORPS DO-
CUMENTS.—The Director of the Peace Corps shall ensure that any reference in any public document, record, or other paper of the United States to the head-
quarters or headquarters offices of the Peace Corps shall, on and after such date, be considered to refer to the Paul D. Coverdell Peace Corps Headquarters.

SEC. 3. PAUL D. COVERDELL BUILDING.
(a) AWARD.—From the amount appro-
priated under subsection (a) the Secretary of Education shall make an award to the Uni-
versity of Georgia to support the construc-
tion of the Paul D. Coverdell Building at the Institute of the Biomedical and Health Sciences at the University of Georgia.
(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for fiscal year 2002.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. HYDE) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.
The Chair recognizes the gentleman from Illinois (Mr. HYDE).

GENERAL LEAVE.
Mr. HYDE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 360.

The SPEAKER pro tempore. Is there objection to the request of the gent-
leman from Illinois?
There was no objection.

PRESIDENT SHOULD ADDRESS ENERGY CRISIS IN CALIFORNIA.
(Mr. FILNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)
Mr. FILNER. Mr. Speaker, I have say to the President, hello, We in Cali-
ifornia and the rest of the Nation are still facing an energy crisis.
Fifty-five percent of the small busi-
esses in the city of San Diego face bankruptcy this year because of the high prices, and yet, not one of the 105 recommendations in the President’s energy plan deal with this situation in California and the West.
None of the President’s speakers sent out over the weekend came out West. Why not, Mr. President? We are facing a crisis of price. Please address this crisis. Please institute cost-based rates for electricity in California and refund the criminal overcharges that we have been paying since last June.
Mr. President, hello. We in California are still suffering.

Roll Call Vote
Senate Bill 1091
Mr. DAVIS of Texas asked and was granted unanimous consent that a recorded vote be taken on the passage of Senate Bill 1091.
Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am proud to rise today to call up S. 360, a bill to honor the late Senator from Georgia, Paul Coverdell. I believe the enactment of this legislation is a fitting and appropriate way to memorialize Senator Coverdell and his work.

We were all shocked and saddened last July when he died so unexpectedly. The State of Georgia lost one of its greatest public servants, a soft-spoken and tireless public servant who served the people first and politics second.

In a public career spanning three decades, from the Georgia Senate to the Peace Corps to the U.S. Senate, he served with dignity and earned everybody’s respect.

Mr. Speaker, this resolution has three components. The bill names the Washington headquarters of the Peace Corps after Paul Coverdell. The legislation reaffirms language approved at the end of last year to ensure that the Peace Corps World Wise Schools Program will carry his name, as well.

Senator Coverdell created the program during his tenure as Peace Corps director. The World Wise Schools initiative has Peace Corps volunteers serving around the globe with the classrooms here in the United States. Senator Coverdell correctly saw that such an effort would promote cultural awareness and foster an appreciation for global connections.

Finally, the legislation authorizes an appropriation of $10 million, to be augmented by $30 million of State and private funds to construct the Paul D. Coverdell building for biomedical and health sciences at the University of Georgia.

Senator Coverdell was a tireless supporter of education in Georgia, and this building will be a living memorial to him, and an unparalleled resource for the students, researchers, and educators of his State and of our Nation.

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

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

Mr. Speaker, I rise in strong support of the bill. Senator S. 360 honors our former colleague, Senator Paul Coverdell, for his service to the country. Senator Coverdell served the citizens of the State of Georgia and the United States for over three decades as a State legislator, as Peace Corps director, and as United States Senator. I believe that this bill is a fitting and appropriate way to memorialize Paul Coverdell’s work and service to our Nation.

This legislation, introduced by the distinguished minority leader of the Senate, TRENT LOTT, has three components. The bill names the Washington headquarters of the Peace Corps after Paul Coverdell, and ensures that the Peace Corps’ World Wise Schools program will carry his name, as well.

Senator Coverdell served as Peace Corps director from 1989 to 1991, critical years during which we witnessed the implosion of the Soviet Union and the opening of Eastern Europe. When the Berlin Wall came down, Senator Coverdell seized the opportunity to move the Peace Corps into Eastern Europe to promote freedom and democracy. This move not only broadened the agency’s mission, but also increased its prestige across the globe.

During his tenure as Peace Corps director, Senator Coverdell established the widely-acclaimed World Wise Schools program.

Under this program, Mr. Speaker, Peace Corps volunteers who have returned to the United States visit schools to give their students impressions and lessons from their overseas service. Senator Coverdell correctly saw that such an effort would promote cultural awareness and foster appreciation of global connections.

Finally, Mr. Speaker, our legislation authorizes funds to construct the Paul Coverdell Building for Biomedical and Health Sciences at the University of Georgia. Paul was a tireless supporter of education, and this building will be a living memorial to him and an unparalleled resource for the students, researchers, and educators of his State and of our Nation.

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

Mr. HYDE. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. LINDNER).

Mr. LINDNER. Mr. Speaker, I first met Paul Coverdell in 1972. He was one of few Republicans in the Georgia State Senate, soon to become its Republican leader, a position he served in for 15 years.

He had come to Georgia as a teenager from Iowa. He then attended the University of Missouri, graduated with a degree in journalism, and he went from there to the Army and was stationed at Fort Benning. When he returned to Atlanta, he involved himself in a very, ultimately very, successful insurance business, the Coverdell Insurance Company, and continued his activities in politics.

In 1989, as has been said, he received an appointment as the head of the Peace Corps from President George Bush. I was curious as to why that was the position he wanted, since he could have had many others. He and President Bush were very close friends for very many years. But he told me that things were changing all over the world; that socialism and communism were going to ultimately be extinct. He had watched the uprisings in Poland in 1980. And, of course, it was not long after he became the head of the Peace Corps that the walls came down. He sent, through the Peace Corps, its first volunteers to Bulgaria, the Czech and Slovak Republics, Hungary, Poland and the Slovak Republics, Hungary, Poland and the other Eastern European countries, for the establishment of Peace Corps programs in China and Mongolia.

When he stepped down from the Peace Corps, he ran for the United States Senate. So he won four elections that year. He came very close in a primary. So who would win, a general election, and a general election runoff. And one of the first assignments he sought when he came to the Senate was the Committee on Agriculture, an industry that is so important to our State.

He got himself involved behind the scenes in the Senate as a hard worker. And those of us who have known him for all these years knew, he had always been a hard worker and a hard worker to work behind the scenes. It became part of the lore of the Senate that whenever a sticky issue came up, the Senate leader TENT LOTT would say, “Send it to Mikey.” “There was a commercial at the time saying anything. Mikey will eat anything.” But the funny part of the story was that Paul had never heard of Mikey. He just thought it was a neat idea. He was given all these challenges.

He was also a leader in Latin American drug enforcement, authoring a law requiring the listing of the world’s top suspected drug dealers in 1999, the Foreign Narcotics Kingpin Designation Act.

This bill is a tribute to a lifetime of hard work for the people of this country, the people of Georgia, and for his party, in that order. The $10 million authorization for the University of Georgia to construct the Paul D. Coverdell building at the Institute of Biomedical and Health Sciences at the University of Georgia is one-fourth of the cost of that project. Our Governor has committed $10 million in State matching funds, and the University of Georgia has already arrived at the other $20 million privately to build this living memorial, as the gentleman from California (Mr. LANTOS) said, to a lifetime of service.

I recall waking up the morning that I heard that Paul had died and felt that there was a huge hole in my life because I had a huge hole in my life for 25 years. And I am now said that most of America will never know how much he is missed because his work was so quiet and so behind the scenes. I thought...
sometime ago that I cannot, over 25 years of working with this man, think of a single former friend of Paul’s, not a single one, who ever left his side in anger, because Paul was such a decent and gentle man. This is a fitting tribute to that decent and gentle man. This is a fitting tribute to that decent and gentle man.

Mr. LANTOS. Mr. Speaker, I am delighted to yield 5 minutes to my distinguished colleague and good friend, the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, I yield to my distinguished colleague and friend, the gentleman from Georgia (Mr. BOEHNER).

Mr. BOEHNER. Mr. Speaker, I want to thank my colleagues from Illinois, the chairman of the Committee on International Relations, for bringing this bill to the floor today, and I do think that it is certainly fitting.

I also want to thank my colleagues from the Georgia delegation for their hard work. Our committee shared some of this jurisdiction early on, and in an effort to move this bill today, I yielded to the gentleman from Illinois to bring this bill up. Why? Because Paul Coverdell was our friend. Not only was he a director of the Peace Corps under President George Bush’s reign in the late 1980s and early 1990s, he was a respected member of the Georgia legislature.

Paul was an insurance agency owner. He understood the private sector. I know Paul worked closely during my years in the Republican leadership here in the House, with Paul representing the Republican leadership in the Senate. We worked closely in a meeting that occurred every single week for about 4 years. I can tell my colleagues that Paul Coverdell was a man of great integrity, someone who worked very hard on behalf of his constituents and on behalf of his Members of the Senate. Not only did he work with his Republican Members but with his Democrat Members as well.

And when I look back through the 10 years I spent in this Congress, I can tell my colleagues that there are but a few people who rise to the stature of former Senator Paul Coverdell. Why? Not just because he worked there, not just because he worked with all his colleagues on both sides of the aisle, but because Paul Coverdell was a man of great integrity who believed strongly in the words of freedom. He understood the private sector, understood the need to allow the genius of the private sector and individuals to be all that they can be and stood up proudly for that each and every day.

We miss Paul Coverdell here in the halls of Congress. I rise today to support this resolution to honor him as a man that we all can look up to, not only today but for generations to come.

Mr. LANTOS. Mr. Speaker, I am delighted to yield 5 minutes to my good friend and distinguished colleague, the gentlemanwoman from Minnesota (Ms. MCCOLLUM).

Ms. MCCOLLUM. Mr. Speaker, today I rise to oppose S. 360, the bill sent to us from the other body, to place the name of the late Senator Paul Coverdell on the Peace Corps headquarters building. Let me briefly tell you, Mr. Speaker, my opposition to this bill is not intended to show any disrespect upon a man that served our Nation with honor and dignity and proud public service.

Senator Coverdell, as the Peace Corps’ 11th director, and as a United States Senator from Georgia, was an advocate for the agency, for volunteers, for the value returned volunteers contribute to our communities here at home. Mr. Speaker, the National Peace Corps Association, which advocates on behalf of both current and returned volunteers, opposes placing the name of Senator Coverdell on the Peace Corps headquarters.

Mr. Speaker, I submit for the RECORD the following letter from the National Peace Corps Association.


I am a returned Peace Corps Volunteer (Zaire, 1973–75) and write to express very strong opposition to the bill which was passed by the Senate and referred to the House, S. 360, RPF. This bill would name the new Peace Corps building in Washington after Senator Paul Coverdell. Senator Coverdell was a brief and undistinguished director of the Peace Corps. If the building is to be named, it should be for people who made a major contribution: President Kennedy set it up, Hubert Humphrey supplied the suggestion, Sargent Shriver was the first and very dynamic director, and President Ruppe (if they want a Republican) was also a very dynamic and much appreciated director. I have received many communications from other former volunteers about the opposition to naming the building after Coverdell is very strong among all I have heard from. There are over 5,000 former volunteers in Minnesota, and about 160,000 nationwide. It would be an insult to all of us to let the Peace Corps headquarters be used in this political way.

Re: S. 360, RPF.

Happy Peace Corps Day!

Today is the 40th anniversary of the founding of the United States Peace Corps! Since
then about 161,000 Americans, young and old and in-between, have represented the best of our country around the world, sharing their expertise in helping the poorest of nations develop, and just as important, sharing the friendship of the American people. The recruiting slogan of the Peace Corps—"The toughest job you'll ever love," is true—although this is not easy! Over 300 Peace Corps volunteers have even died while in service (mostly in auto crashes).

But I am writing you now about a proposal by Senators Trent Lott and Phil Graham to name the Peace Corps building in Washington after the late Senator Paul Coverdell, who served as Peace Corps director for barely two years in the early '90s. This is a slap in the face of Peace Corps' 161,000 alumni. It is not that Coverdell was bad Peace Corps director; it's just that he wasn't a distinguished one. And it appears that he wasn't even that interested in the job, using the office to campaign for his Senatorial seat.

There are far more appropriate people to name the building after, like JFK, who founded the Peace Corps, or Sargent Shriver, it's first director, or the late Loret Ruppe, a director who was at once both warm and supportive to the volunteers in the field, and shrewdly effective on Capitol Hill. Or it could be named after all 161,000 of us who served, with special attention to the 300 who died while serving.

Name the building after, like JFK, who served as Peace Corps director for barely two years in the early '90s. This is a slap in the face of Peace Corps' 161,000 alumni. It is not that Coverdell was bad Peace Corps director; it's just that he wasn't a distinguished one. And it appears that he wasn't even that interested in the job, using the office to campaign for his Senatorial seat.

The Peace Corps is about the 7,300 Americans that are currently serving their country as volunteers. And sadly, the Peace Corps is also about the 300 men and women that have died serving our country as volunteers.

The Peace Corps is about the 7,300 Americans that are currently serving their country with pride and distinction in more than 77 countries. The Peace Corps is about the more than 163,000 Americans, including 5,000 Minnesotans, who are serving in 160 countries, the most remote corners of the planet.

The Peace Corps is about all 15 directors and the thousands of dedicated staff, past and present, that have supported volunteers abroad and returned volunteers at home. And sadly, the Peace Corps is also about the 300 men and women that have died serving their country as volunteers.

Mr. Speaker, today we are asked to place the name of a former Peace Corps director on the agency's headquarters. Yet this administration has still not seen fit to nominate a director to get inside and work on the Peace Corps headquarters to lead the agency forward.

As we celebrate the 40th anniversary of the Peace Corps this year, President John F. Kennedy stated that the Peace Corps was formed as an instrument of diplomacy or propaganda or ideology conflict. It is designed to permit our people to exercise more fully their responsibilities in the great common cause of world development."

Mr. Speaker, I ask my colleagues in the House to respect the thousands of former volunteers and their service to America by not naming the Peace Corps building. Please oppose S. 360, and let us find another way to honor and respect the memory of the late Senator Coverdell.

Mr. HYDE, Mr. Speaker. I yield 6 minutes to the gentleman from Georgia (Mr. Kingston).

Mr. KINGSTON. Mr. Speaker, I thank the gentleman from Illinois (Mr. LANTOS) and the gentleman from Ohio (Mr. BOEHNER) for their support of this legislation and for moving it forward.

Mr. Speaker, I am a friend of Paul Coverdell's family, his wife Nancy, and certainly was a good friend of Mr. Coverdell; and I am proud to stand in support of this. I am saddened and disturbed by those who are in opposition of this legislation. I would ask, Mr. Speaker, is there a road, is there a bridge, is there a building in the United States of America that was built by one person, one personality, one act of one man? I say certainly there is not. Yet routinely we in this body name roads, bridges and buildings after one person. It is symbolic. It does not say there was no one else involved in it. Only says here was somebody who was typical of the spirit of that group or that organization.

Mr. Speaker, we cannot name every building after every person. It is too bad because we know all great acts and great institutions have myriads players. That is what we are doing today, not to slight others, but to commemorate many through naming it for one person.

Mr. Speaker, I would ask my colleagues who are opposed to this to abandon their pettiness and ask them to abandon their partisanship that seems to be taking place. If this is their standard, it must disturb them greatly when we name the post offices and buildings and roads and bridges which we routinely do under the suspension of the gentleman from Georgia.

I want to talk a little bit about Paul Coverdell. I first learned about him in 1974. At that time, he was a candidate for the Georgia Senate; and my mother, who was urging me to look into a political career or be interested in politics, carved in stone, Dad, I fell off the slide, and I hurt my heinie, and all the other children are laughing at me." The room full of grown-ups fell silent; and all eyes went to the little girl who was 4 years old came running into the room. She had been playing out in the backyard with the other kids, and she said, "Mom and Dad, I fell off the slide, and I hurt my heinie, and all the other children are laughing at me."

I remember during that period of time when he was director of the Peace Corps, we had a meeting at our house. We had all kinds of Peace Corps volunteers there. It is interesting to hear some of the comments today. I do not remember any of those volunteers being resentful of Paul Coverdell. I remember the heavenly grace and charm of Paul Coverdell. Here is a man with a world view but could look at a 4-year-old girl and say, everything is okay. That is what made Paul Coverdell special.

Mr. Speaker, when Paul got to the Georgia Senate, at that time there were only three Republicans in the Georgia Senate. When I joined it in 1984, and I was a member of the General Assembly with the gentleman from Georgia (Mr. LINDER) and the gentleman from Georgia (Mr. COLLINS), there were nine Republican Senators. Paul Coverdell was the minority leader; and yet, despite the numerical odds against him, he talked his ideas. He played in the arena. He was a force in the arena because of his ideas.

Mr. Speaker, I remember one idea he had on DUI legislation. His approach, rather than just keep increasing the DUI penalties, he said a lot of these repeat offenders are alcoholics. Why not require an assessment and then rehabilitation. That was a new idea, but that was typical of Paul Coverdell, being unconventional. Here is a man with a world view but could look at a 4-year-old girl and say, everything is okay. That is what made Paul Coverdell special.

Mr. Speaker, he went into the most difficult and remote places and countries and said, "How can we help with health care? Are there any new ideas out there? Is there a way to get cleaner water? What can we do for the children?"

I remember during that period of time when he was director of the Peace Corps, we had a meeting at our house. We had all kinds of Peace Corps volunteers there. It is interesting to hear some of the comments today. I do not remember any of those volunteers being resentful of Paul Coverdell. They loved the fact that he would ask former volunteers what they thought. Mr. Speaker, we were in the middle of our meeting and Mr. Coverdell was giving a demonstration of how to do barbecues. And my little girl who was 4 years old came running into the room. She had been playing out in the backyard with the other kids, and she said, "Mom and Dad, I fell off the slide, and I hurt my heinie, and all the other children are laughing at me."

The room full of grown-ups fell silent; and all eyes went to the little girl who was at the foot of this soon-to-be U.S. Senator, a very dignified and somewhat sophisticated man and a tad old-fashioned in his mannerisms, to a very positive extent, I might add, and he looked down at her and smiled. It said it all. Everything was fine, and the little girl got herself back together and ran back out on the playground with the rest of the kids.

Mr. Speaker, that was the grace and charm of Paul Coverdell. Here is a man with a world view but could look at a 4-year-old girl and say, everything is okay. That is what made Paul Coverdell special.

Mr. Speaker, when he came to Washington both with the Peace Corps and
as a U.S. Senator he worked for farmers and veterans. He worked for education. He was a member of the back rooms with the high and connected, yet he never forgot the common person.

Mr. Speaker, I am proud to support this legislation. I think those who will study the life of Paul Coverdell will also be proud to support it as well.

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

Mr. HYDE. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. ISAKSON).

Mr. ISAKSON. Mr. Speaker, I thank the gentleman from Illinois (Mr. HYDE) and I thank the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce, for their hard work and the gentleman from Georgia (Mr. LINDER) for his hard work on this bill.

Mr. Speaker, this is the people’s House, and I would like to answer the question the limited objection to this bill: Did Paul Coverdell possess the greatness to receive this honor?

Mr. Speaker, if I ask any woman in America what is great about a man, they would say one that is a man of fidelity and lives true to his values and his word about his career, and Paul did that to Nancy.

Mr. Speaker, if I ask a bureaucrat what is great about an American, they would say give me a director who not only talks the talk but walks the walk; and Paul Coverdell walked Eastern Europe, he walked battlefields, he walked jungles.

If I ask a legislator what is greatness, they would say someone who is willing to reform and stand against great odds.

Mr. Speaker, Paul Coverdell was the minority leader of the Georgia House when the odds politically were 11-1. He passed drunk driving laws and tolerance laws that brought about reform in our State, fought for the lives and addressing the appropriate way one should behave.

Mr. Speaker, if I ask a man or woman in the U.S. military what is greatness, they would say give me a politician who served his country and risked his life; and Paul Coverdell served with distinction as an officer in the United States military.

Mr. Speaker, in this day and time when the failures of a few elected politicians asked in the limited objection, it is appropriate that S. 360 recognizes one of us whose life was an example of greatness, a man who dispelled all of those images some like to portray of us.

Mr. Speaker, Paul Coverdell did it with an articulate voice, with hard work and dedication and with commitment. Personally, I am sorry we are here today for this because I wish Paul Coverdell was here. I wish he was right here. God took him far too soon. But I am pleased we honor him with this recognition of the Peace Corps building, and I am pleased we honor him with this great building at the University of Georgia.

Mr. Speaker, I appreciate the opportunity to commend my friend, a great person, Paul Coverdell.

Mr. HYDE. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. COLLINS).

Mr. COLLINS. Mr. Speaker, I rise in support of the authorization for funds for the Paul D. Coverdell Building at the Institute of Biomedical and Health Sciences at the University of Georgia.

It is appropriate because this man we seek to honor, Paul Coverdell, was a teacher’s teacher. He led by the strength of his character and the strength of his ideas. He never missed an opportunity to educate his colleagues, the press and the public. He was a hard-working, thoughtful legislator who was a leader, a good man and a very good public servant.

To me, Paul Coverdell was more than a colleague. He was a true friend, a mentor.

Mr. Speaker, when I was first elected to the Georgia State Senate, we walked together through his neighborhood so he could educate me on the difficulty of serving in the Georgia State Senate that were mentioned earlier. But that was his style. He was quiet, purposeful. He was a teacher, someone who was more concerned about getting the job done than who received credit.

Mr. Speaker, the job of a scientist or doctor researching medicine and health is long, hard and painstaking. It is also often a labor in obscurity. The fruits of research, however, can have a major impact on lives today and in the future. This building’s dedication to education, to improve people’s lives and the future of this country is why those of us who knew Paul Coverdell believe this building is an appropriate monument to a real patriot, Paul Coverdell.

Mr. Speaker, I have only one further request for time.

Mr. LANTOS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HYDE. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. DEAL).

Mr. DEAL of Georgia. Mr. Speaker, I thank the gentleman for yielding me this time, and it is an honor to speak on this measure before the House today.

Mr. Speaker, exactly 20 years ago this month we had completed the first legislative session in which I participated as a freshman member of the Georgia Senate. When I arrived there, Paul Coverdell was already entrenched in that body. He and I were on different sides of the political spectrum, but I soon learned that he was a man that everyone respected first for his integrity and, secondly, for his willingness to work without regard for personal gratification, even to the point of not taking no.

Mr. Speaker, it is appropriate that we dedicate this building and this entire enterprise to his memory today.

For those that suggest that we are self-indulgent by recognizing one of our generation, I would simply say a generation that is without heroes or models of public service is indeed a bankrupt generation. Thankfully, we have the Paul Coverdells of our day. It is appropriate that we take action to recognize him.

Mr. NORWOOD. Mr. Speaker, today we approve important legislation in honor of Paul Coverdell, a sterling example of what a U.S. Senator should be. The finest tribute we pass is more than a gesture, it is legislation of substance. I believe Senator Coverdell would be quite pleased with that fact.

We honor his memory by designating that Peace Corps Headquarters be named in his honor.

We honor his legacy of achievement by appropriating funds for the completion of a state of the art health research center at the University of Georgia, one that will provide benefits for all the people of America for generations to come.

Why do we so honor this man? Paul Coverdell provided the kind of leadership for Georgia, America, and the world, that will be sorely missed.

Paul Coverdell was unshakable in his resolve to support the right policies for Georgia and America. Yet in 6 years of serving with him in Congress, I never heard him utter an unkind word toward an opponent.

He was a man of reason and principle, and provided a shining example of civility in action in the arena of public debate.

He never backed down on principle, yet he held his ground with dignity and respect for the positions of those who disagreed. And he never gave up.

Since coming to Washington in 1993, Senator Coverdell fought to improve the education of America’s children. That fight continues today. Because of his efforts, I believe that fight will eventually be won. When it is, the final product will have the fingerprints of Paul Coverdell on every page.

Senator Coverdell was likewise a champion of those who have served this country in our armed forces.

When Congress forgot the promises made to our veterans, Paul Coverdell reminded us all of those commitments. His legislation to restore those promises is still pending in both chambers.

In this House, 305 members have cosponsored this legislation. The Keep Our Promises To America’s Military Retirees Act. The finest tribute we could all pay to this true statesman would be to pass that measure into law before this session ends. Today, I recommit myself to helping make that happen.

There are far too many issues to mention in which Senator Coverdell played a decisive role. But we do need to reflect on Paul Coverdell’s public service before he became a Senator, for it reflects a lifetime of public service.

He began adult life by serving America in the U.S. Army in Okinawa, Korea, and the Republic of China.

He served his State in the Georgia Senate for nearly two decades.

And he stood as a symbol of this country, and the world as Director of the Peace Corps, where his leadership in building democracy was vital in reclaiming much of Eastern Europe from the dictatorship of communism.
Paul Coverdell can no longer be with us in body. But the wisdom, generosity, civility, patriotism, and dedication that he brought to this Congress will never die.

We honor his memory today through enactment of this important legislation.

But how we should continue to honor his life's work by seeing his missions through—from giving our children a choice in education, to restoring the health care of the defenders of America.

Mr. Speaker, let us pay tribute to a great leader, by not only passing this bill today, but also redoubling our efforts to see all the reforms of Senator Paul Coverdell enacted into law.

Mr. SHOWS. Mr. Speaker, I rise today in support of S. 360, which honors the memory of our esteemed colleague, Paul Coverdell. As a respected Member of the U.S. Senate and leader of the Peace Corps, Paul Coverdell's devotion to public service knew no partisan bounds. It is fitting that we consider a measure honoring him.

But rather than having buildings named after him, I believe a fitting tribute would be to finish the work he helped start, to restore health care to America's military retirees.

Paul Coverdell was one of the four original sponsors of The Keep Our Promise to America's Military Retirees Act. Along with Senator Tim Johnson, Congressman Charlie Norwood and my self, Senator Coverdell introduced the bill that is largely credited with giving rise to Tricare for Life.

TFL will go a long way to restoring earned health care to many elderly military retirees, but we need to keep our promise to all military retirees.

TFL does not help military retirees who don’t qualify for Medicare and don’t have access to quality care at military bases. We need to keep our promise to them.

And retirees who entered the service prior to 1956 actually had health care benefits taken away from them. We need to keep our promise to them, too. That is what Paul Coverdell wanted and that is what we should do.

Paul Coverdell would prefer a legacy of helping care to people who need it, who earned it and were promised it.

We should honor the memory of our late colleague by passing the Keep Our Promise to America’s Military Retirees Act.

Mr. LEVIN. Mr. Speaker, I rise in respectful opposition to S. 360. Let me make it clear that my opposition to this measure is in no way, shape or form a reflection on Senator Paul Coverdell or his memory. Paul Coverdell was an able Senator and dedicated public servant. He deserves to be honored by the Congress of the United States. Indeed, we did so last year when we passed the Paul Coverdell National Forensic Sciences Improvement Act. This was a fitting tribute as Senator Coverdell made the improvement of forensic science services one of his highest priorities.

The Congress frequently names buildings, post offices and bridges after individuals. The Peace Corps is different. This organization is the work of thousands of dedicated men and women who volunteer to serve in the most remote corners of our planet. The Peace Corps is the sum of their efforts, not the work of any individual.

I received a letter on this subject from one of my constituents who was himself a Peace Corps Volunteer. He writes, “As a former Peace Corps Volunteer, I am requesting that S. 360 not be brought to the House floor as a non-controversial bill. I, along with what I suspect is a majority of former volunteers, am against the idea of naming the Peace Corps Headquarters after the late Senator Coverdell. I have nothing against the late Senator. It’s my understanding that he was a good man who did his best as a Senator and a Peace Corps Director. However, the Peace Corps building should not be named after any one single person.

In the memory of the thousands of men and women, including Paul Coverdell, who have served the Peace Corps, I urge my colleagues to join me in opposing this legislation.

Mr. BARR of Georgia. Mr. Speaker, today we honor Senator Paul D. Coverdell for a lifetime of service to the people of Georgia and this country. S. 360 dedicates the U.S. Peace Corps Volunteers Headquarters, the World Wise Schools Programs, and a yet to be constructed building at the University of Georgia, to this outstanding public servant. Paul Coverdell was an honorably and is the least man I can do for someone who gave so much of his life to serving the community and the nation.

Known for his unfailing work ethic, the Senator was not one to let grass grow under his feet. A veteran of the U.S. Army and the Peace Corps, Senator Coverdell was elected to Georgia State Senate in 1970 where he served as minority leader for 15 years. He was then appointed director of the U.S. Peace Corps Volunteers in 1989, a position from which he initiated the World Wise Schools Programs, pairing students with Corps volunteers, to give them a personal experience serving the world's less fortunate. It is only fitting we rename the Peace Corps Volunteers Headquarters Building and the World Wise Schools Programs, in his honor.

Deeply concerned with education policy, Senator Coverdell chaired the Senate Republican Task Force on Education, in addition to drafting legislation to create Education Savings Accounts. He was also a strong proponent of drug policy reform—he defended the decision to continue U.S. support for the fight of the Colombian drug trade; and he authored the 1999 Foreign Kingpin Designation Act.

I am proud to have served with my fellow Georgian, Senator Paul D. Coverdell. Though we can never replace him, he will not be forgotten. On this day, I ask my colleagues to reconsider the joint resolution (H. Res. 50) disapproving the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974 with respect to the People’s Republic of China.

That the joint resolution be considered as read for amendment;

That all points of order against the joint resolution and against its consideration be waived;

That the joint resolution be debatable for 2 hours equally divided and controlled by the chairman of the Committee on Ways and Means (in opposition to the joint resolution) and a Member in support of the joint resolution;

That pursuant to sections 152 and 153 of the Trade Act of 1974, the previous question be considered as ordered on the joint resolution to final passage without intervening motion; and

That the provisions of section 152 and 153 of the Trade Act of 1974 shall not otherwise apply to any joint resolution disapproving the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974 with respect to the People’s Republic of China for the fiscal year ending September 30, 2002, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore (Mr. Isakson). Under clause 1 of rule XXI, all points of order are reserved.

REPORT ON H.R. 2506, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS BILL, 2002

Mr. KOLBE, from the Committee on Appropriations, submitted a privileged report (Rept. No. 107-142) on the bill (H. R. 2506) making appropriations for Foreign Operations, Export Financing, and Related Programs, and for sundry independent agencies and corporations for the fiscal year ending September 30, 2002, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore (Mr. Isakson). Under clause 1 of rule XXI, all points of order are reserved.
Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up H.J. Res. 36 and ask for its immediate consideration.

The Clerk reads the resolution, as follows:

H. Res. 189

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the joint resolution (H.J. Res. 36) proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States. The joint resolution shall be considered as read for amendment. The previous question shall be considered as read for any amendment thereto for final passage without intervening motion except: (1) two hours of debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; (2) an amendment in the nature of a substitute, if offered by Representative Conyers or his designee, which shall be considered as read and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) a motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 189 is a modified closed rule providing for the consideration of a constitutional amendment which would authorize Congress to ban the physical desecration of the American flag.

H. Res. 189 provides for 2 hours of debate in the House of Representatives, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. Upon the adoption of this rule, H.J. Res. 36 is made in order and considered as read. The rule also makes in order a substitute amendment if offered by the gentleman from Michigan (Mr. CONYERS) or his designee, which shall be separately debatable for 1 hour equally divided between a proponent and an opponent. All points of order are waived against this amendment.

Finally, the rule provides for one motion to recommit, with or without instructions, as is right of the minority.

Mr. Speaker, this rule would allow Congress to debate legislation that protects our American heritage by protecting one of our most important symbols, the American flag. Most Americans who have fought and died for this country, and they look to the flag as the embodiment of our country's values.

Two reasons for supporting this measure come to mind as we consider this legislation. First, from a logical standpoint, if we prohibit the destruction of U.S. currency by law, then surely protecting our symbol of freedom and democracy is just as important.

The second reason is a more powerful one. Many Members believe it is the duty of Congress to protect the integrity of our heritage from individuals who disrespect this country. It is in the best interests of the American people to pass this legislation, and I wholeheartedly support it. In fact, I am an original cosponsor of H.J. Res. 36.

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

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

First, Mr. Speaker, let me thank the gentleman for yielding me this time. It is a pleasure to serve on the Committee on Rules with the gentleman from Georgia (Mr. LINDER).

Mr. Speaker, I am in strong opposition to House Joint Resolution 36. I firmly believe that passing this constitutional amendment would abandon the very values and principles upon which this country was founded.

Make no mistake, I deplore the desecration of the flag. The flag is a symbol of our country and a reminder of our great heritage. I find it unfortunate and repugnant that a few individuals choose to desecrate that which we hold so dear. However, it is because of my love for the flag and the country for which it stands that, unfortunately, I have no choice but to oppose this well-intentioned but misguided, in my view, legislation.

Our country was founded on certain principles. Chief among these principles is freedom of speech and expression. These freedoms were included in the Bill of Rights because the Founding Fathers took deliberate steps to avoid creating a country in which individuals' civil liberties could be abridged by the Government. Yet that is exactly what this amendment would do. It begins a dangerous trend in which the Government can decide which ideas are legal and which must be suppressed.

Ultimately, we must remember that it is not simply the flag we honor but, rather, the principles it embodies. To restrict people's means of expression would do nothing to further those principles, and to destroy these principles would be a far greater travesty than to destroy its symbol. Indeed, it would render the symbol meaningless.

Earlier this month, Mr. Speaker, I was with a group of 15 Members of Congress this country's largest American cemetery in Normandy, France. There we saw the graves of more than 9,000 men and women who gave their lives not just for the liberation of Europe but in defense of an idea: democracy, and all that it stands for. What democracy stands for is forever enshrined in our Constitution. These men and women who died for an idea, and the patriots who came before and after them, understood that idea.

I brought back these two flags, this one especially, the American flag. The other is the flag of France. I hold it here to remind myself of what others fought for. I think that is why it is so important to this country which protects individual rights and liberties more than any other country in the world. Understand, though, this flag itself has little inherent value. It is cloth attached to a piece of wood. The value of this cloth is in the messages that it conveys and the country that it stands for and the people who have fought and died to keep this flag and others like it flying high and free. Those men who died storming Omaha and Utah Beaches did so for a flag that they fought for the idea that our flag represents. This amendment, in my view, would diminish what those brave men and women fought and died for.

The last time Congress debated a similar bill, retrieved four-star general and current Secretary of State Colin Powell said that he would not support amending the Constitution to protect the flag. In fact, General Powell said, 'I would not amend that great shield of democracy to ban a few miscreants. The flag will be flying proudly long after they have slunk away.'

We are too secure as a Nation to risk our commitment to freedom by endeavoring to legislate patriotism. If we tamper with our Constitution because of the antics of a handful of thoughtless and obnoxious people, we will have reduced the flag as a symbol of freedom, not enhanced it.

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

Mr. LINDER. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in support of the rule. The American flag serves a unique role as the symbol of the ideals upon which America was founded. It is a national asset that helps to preserve our unity, our freedom, and our liberty as Americans. This symbol is dearer to our hearts than any other country in the world, more so than the flag of France. It is our country's many hard-won freedoms paid for with the lives of thousands and thousands of young men and women over this Nation's history. For years, 48 States and the District of Columbia enforced laws prohibiting the physical desecration of the American flag. In the 1989 Texas v. Johnson ruling, the United States Supreme Court in a 5-4 vote overthrew what until then had been settled law and ruled that flag desecration as a means of public protest to be a protected freedom, protected by the first amendment to the U.S. Constitution. A year later, essentially reiterating its Johnson ruling,
the court in U.S. v. Eichman, another 5-4 ruling, by the way, struck down a Federal statute prohibiting the physical desecration of the flag despite the court’s own conclusion that the statute was content-neutral.

In a series since these two rulings were handed down, 49 States have passed resolutions calling upon this Congress to pass a flag protection amendment and send it back to the States for ratification. Although a constitutional amendment should be approved only after much reflection, the U.S. Supreme Court’s decisions in the Johnson and the Eichman cases have left the American people with no other alternative but to amend the Constitution to prohibit the physical desecration of the American flag. The amendment enjoys strong support throughout the Nation, indicating that it will likely be adopted by the States should this Congress approve the language.

I urge my colleagues to approve this rule and move to full debate and pass H.J. Res. 36.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to the rule.

Mr. Speaker, I think the well-settled law of this nation to be called into question at the whim of special interest groups who disagree with the value we Americans place on freedom of speech. By allowing this debate to occur, the leadership has signaled its intention to favor its ideological companions with regard for legal precedent or constitutional muster.

In 1989 the Supreme Court was faced with a difficult balancing test. Texas v. Johnson, 491 U.S. 397, forced the Court to examine whether the interests of this nation in protecting the symbol of its freedom are outweighed by the individual freedoms of its citizens. The Court did not shy away from this difficult balancing test.

Following this rights-affirming decision, Congress passed the “Flag Protection Act of 1989,” which attempted to criminalize the conduct of those who might use the flag for free speech purposes. The next session the Supreme Court invalidated this law on the same grounds it ruled on during its previous session. The Court held that attempting to preserve the physical integrity of the flag is only related to the flag as an article of speech or conduct in United States v. Eichman, 496 U.S. 310 (1990).

Now, Mr. Speaker, over ten years later, Congress is again attempting to impermissibly affect the ability of citizens to speak freely by taking the normously grave step of amending the Constitution of the United States. Supporters of this amendment argue that the step is warranted considering the Supreme Court’s opinion on the flag; I contend the Supreme Court’s opinion requires my opposition to this rule.

Mr. Speaker, it has already become cliche to point out that we are a nation of laws, not persons. However, in this circumstance, that is exactly my point. The Supreme Court has spoken in an unambiguous way about the balancing of interests between the flag and the rights of individuals. On two separate occasions the right of individuals to speak has won.

Instead of honoring the decisions of the Court, and thereby respecting the separation of powers within the federal government, the House would have instead failed to play politics with the law. On this day we begin subverting legal opinions to the whims of the legislative branch in a new and chilling way. Any coalition with close enough ties to the majority might hope to see their pet project ratified as an amendment to our Constitution.

Mr. Speaker, not only this resolution, but also this very debate cast a long shadow over our long history of separation of powers. I contend it is our rights as citizens and our legal system that suffer. I oppose this rule.

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

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMENDING MILITARY AND DEFENSE CONTRACTOR PERSONNEL RESPONSIBLE FOR SUCCESSFUL BALLISTIC MISSILE TEST

Mr. HUNTER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 195) commending the United States military and defense contractor personnel responsible for a successful in-flight ballistic missile defense interceptor test on July 14, 2001, and for other purposes.

The Clerk read as follows:

Whereas at 11:09 p.m., eastern daylight time on July 14, 2001, the United States successfully tested an interceptor missile against a target Minuteman intercontinental ballistic missile; and

Whereas the target missile was launched from Vandenberg Air Force Base, California, and was traveling at approximately 140 miles above the Earth at a speed of greater than 11,000 feet per second, which is more than three times faster than a high-powered rifle bullet; and

An interceptor was launched from Kwajalein Island, also achieving a speed of close to 11,000 feet per second, and a gun much mustier bullet; and

At 11:09 eastern time that interceptor successfully hit the target vehicle and destroyed it 148 miles above the Earth over the Western Pacific;

Mr. Speaker, I think Americans need to draw a number of conclusions from this very successful test. First, it is absolutely appropriate that we in the House of Representatives commend all the great people who worked on this project and who intend to do that fully. Of course, the Army developed the radar and the kill vehicle working from their missile defense headquarters in Huntsville, Alabama. The Air Force in this case launched the Minuteman missile, which was the target missile, from Vandenberg Air Force Base. We had Navy and Coast Guard monitoring and providing security in the Pacific. So we had thousands and thousands of military people in uniform supporting these tests, all the way from folks who were doing basic security work to folks who were doing some very high-level physics work.

Along with that, we had lots of Americans, scientists, engineers, blue-collar workers, some working for major contractors and others working for small business. One thing we have learned in this missile defense business is that the innovators, sometimes the smartest guys, are in the companies who work on 20, 30, 40, and all of these people combined to produce a success that was stupendous. It was remarkable.

It was extraordinary, Mr. Speaker. We had an interceptor that was launched from Vandenberg Air Force Base in California, heading west, achieving a speed of some 11,000 feet per second, or more than three times faster than a high powered rifle bullet; and an interceptor was launched from Kwajalein Island, also achieving a speed of close to 11,000 feet per second, and a gun much mustier bullet; and at 11:09 eastern time that interceptor successfully hit the target vehicle and destroyed it 148 miles above the Earth over the Western Pacific.
Indeed, if we have learned anything since March 23, 1983, when Mr. Reagan made his speech and proposed what became the Strategic Defense Initiative, it is that missile defense is not likely, unfortunately, to make nuclear weapons impotent and obsolete. It may even be likely to make deterrence less attractive, if not likely to replace deterrence. That is a fundamental point.

Nevertheless, I think enhancing deterrence is a worthy goal. I think that if we can prove through testing, like we did on Saturday night, passing rigorous testing, that gets more and more demanding and challenging with each test, that eventually takes on countermeasures as well, if we can prove after this kind of rigorous testing that we have a system worthy of deploying, that will give us limited protection against the kind of threat I just described, it is worth deploying; and I think it is worth observing what was accomplished Saturday night, because it means a lot.

Let me emphasize that testing is critical. I have been a long-time supporter of that. We do not want to fool ourselves into thinking that we have got a system that can take on this daunting task. In fact, it can easily be overcome or is not capable of what it is touted to be. We do not want to fool ourselves by deploying some kind of scarecrow system.

We associate ballistic missile defense with Mr. Baines Johnson in 1967, have supported a limited defense system capable of defending us against rogue missile threats. But, nonetheless, Mr. Speaker, we have proven that not only can you hit a bullet with a bullet, but you can hit something going three times as fast as a bullet with an interceptor going three times as fast as a bullet, and that is truly extraordinary.

Mr. Speaker, this is a good day for America. It is a great milestone in this missile defense program that we have. We have a lot of hard work ahead. We have a lot of challenges, these tests will get tougher and tougher; and in the future, of course, we will have failures as well as successes.

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

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

Mr. Speaker, I am glad to join the gentleman from California (Mr. HUNTER) in support of this bill, as a co-sponsor of the bill, as well as the floor manager for the bill on our side of the aisle.

The road to Saturday's successful intercept has been long and arduous; and we have miles to go before we can say we have gotten there, even gotten to the point where we have what we call a limited defense system capable of defending us against rogue missile attacks, simple rogue missile attacks, or perhaps unauthorized or accidental strike. We have a long way to go, and we should not let the euphoria of this moment obscure that fundamental fact.

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

Mr. HUNTER. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. TRAFICANT).

Mr. TRAFICANT. Mr. Speaker, leaders of China and Russia have just kissed, signed an agreement, and referred to Uncle Sam as an imperialist. China got our secrets, our nuclear spies, and from buying, with the help of Janet Reno. Russia got them from the FBI and Robert Hansen. All of our enemies know our technology.

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

Mr. HUNTER. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. HUNTER) who understands what your position is on the ABM treaty or missile defense, to commend the wondrous efforts of the men and women of our uniformed services, and also all the folks working in business to make this thing work. All the contractor personnel who made it go.

Secondly, I think we have to acknowledge we have got a long road ahead in this program. As our resolution states, we are going to have lots of successes to have lots of failures. I am reminded that with Polaris, the Polaris tests numbered over 120, and it failed more than 50 percent of the time. The first time we put up survivable capability, our first 11 launches failed before we succeeded. Yet that was a very important capability to achieve.

So you have to have lots of failures. In fact, if you test rigorously, if you make sure these tests as difficult as you possibly can, while still learning a lot, you are going to have failures. I think we will have failures in the future, just as we are going to have failures with our other theater missile defense systems. But, nonetheless, Mr. Speaker, we have proven that not only can you hit a bullet with a bullet, but you can hit something going three times as fast as a bullet with an interceptor going three times as fast as a bullet, and that is truly extraordinary.

Mr. Speaker, this is a good day for America. It is a great milestone in this missile defense program that we have. We have a lot of hard work ahead. We have a lot of challenges, these tests will get tougher and tougher; and in the future, of course, we will have failures as well as successes.

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

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

Mr. Speaker, I am glad to join the gentleman from California (Mr. HUNTER) in support of this bill, as a co-sponsor of the bill, as well as the floor manager for the bill on our side of the aisle.

The road to Saturday's successful intercept has been long and arduous; and we have miles to go before we can say we have gotten there, even gotten to the point where we have what we call a limited defense system capable of defending us against rogue missile attacks, simple rogue missile attacks, or perhaps unauthorized or accidental strike. We have a long way to go, and we should not let the euphoria of this moment obscure that fundamental fact.

Indeed, if we have learned anything since March 23, 1983, when Mr. Reagan made his speech and proposed what became the Strategic Defense Initiative, it is that missile defense is not likely, unfortunately, to make nuclear weapons impotent and obsolete. It may even be likely to make deterrence less attractive, if not likely to replace deterrence. That is a fundamental point.

Nevertheless, I think enhancing deterrence is a worthy goal. I think that if we can prove through testing, like we did on Saturday night, passing rigorous testing, that gets more and more demanding and challenging with each test, that eventually takes on countermeasures as well, if we can prove after this kind of rigorous testing that we have a system worthy of deploying, that will give us limited protection against the kind of threat I just described, it is worth deploying; and I think it is worth observing what was accomplished Saturday night, because it means a lot.

Let me emphasize that testing is critical. I have been a long-time supporter of that. We do not want to fool ourselves into thinking that we have got a system that can take on this daunting task. In fact, it can easily be overcome or is not capable of what it is touted to be. We do not want to fool ourselves by deploying some kind of scarecrow system.

We associate ballistic missile defense with Mr. Baines Johnson in 1967, have supported a limited defense system capable of defending us against rogue missile threats. But, nonetheless, Mr. Speaker, we have proven that not only can you hit a bullet with a bullet, but you can hit something going three times as fast as a bullet with an interceptor going three times as fast as a bullet, and that is truly extraordinary.

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Mr. Speaker, apparently I am the only person who is going to come out here and raise a question. Everybody who has watched the military industrial complex develop weapons systems must be amazed that the day after something happens in the Pacific, we run out on the floor in this virtual reality and we make a PR event, which will be in the newspapers, as though we have succeeded. Now we must put out $60 billion or $100 billion.

If you listen carefully to the words of the gentleman from South Carolina (Mr. SPRATT), this thing has failed over and over again. This is only the second time out of four, in a system where you put the problem out there and you have the answer, and you shoot at it, and two out of four times you have missed.

Now, how can anybody be excited about a system like that? If I know what the pitcher is going to throw and I stand here, I am going to hit it. Everybody knows that. That is why they hide the pitcher's signals between the catcher's legs. They do not want people to know at bat what the pitcher is going to throw. But here we have this system, right here and right here, and twice we missed it; and we are out here congratulating.

I do not say anything about the employees. Boeing has worked on all kinds of these programs, but we never came out and congratulated them the first time they succeeded. This is simply the gentleman in this society for a system which, as the gentleman from Ohio (Mr. TRAFICANT) says, is driving the Chinese and the Russians together.

To put this system up, we have to tear up the ABM treaty. The Russians have said do not do it; it has kept peace for 50 years. The Chinese have said do not do it.
Mr. SPRATT. Mr. Speaker, I yield myself such time as I may consume.

Let me just take a minute to comment on the legislative history of this resolution.

I first learned of this resolution when I got here yesterday afternoon from the gentleman from California (Mr. HUNTER) on the golf course. He had his staff busy at work on this, and he wanted to send me a copy of it. Over the evening, we proposed a number of changes to the bill and the resolution, and I agree could at least send a word of commendation to the people who have so ably pulled off this test.

Mr. HUNTER. Mr. Speaker, if the gentleman will yield, that was a good decision. I yield to the gentleman.

Mr. SPRATT. Mr. Speaker, I yield 3 minutes to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I thank the gentleman for yielding me this time. Although I am proud of the men and women in our military service and those working for defense contractors who were part of this success, I have to rise in opposition to the resolution for several reasons, first, in terms of process. As the gentleman from South Carolina said, this resolution was never considered by the Committee on Armed Services. It was just brought to the attention of the minority yesterday at 5 o’clock. There was no consultation with the minority until then. I think many of us usually do not have a grasp on the implications of what it is we are voting on.

Second, precedent. This resolution commends the U.S. military personnel and contractors for the apparently successful national missile defense tests of last Saturday. BMDO says it will conduct 10 more tests in the next year. So do we pass a resolution each time it misses? Because there are some Members who would want to do that, although some of them and the majority support their right to offer such a resolution? What kind of precedent are we setting? Will we feel compelled to vote every time a major weapons system passes a milestone? The F-22, for example. Why not pass a resolution every time a community gets a COPS grant or a housing grant?

My third objection is substance. General Kadish, in the post-test briefing, cautioned that scientists could need months to finish analyzing the test results: “We do not know for certain that every objective was met,” he said. “In all probability, some of them were not.” I believe it is irresponsible to put the House of Representatives before there has been a full analysis.

Now, the gentleman from Pennsylvania (Mr. WELDON) on the Republican side, who has worked on this issue for years, and I do not see eye to eye on missile defense very much, but together we sent a “Dear Colleague” last week urging Members not to rush to judgment on the test results, positive or negative. We quoted General Kadish: “I do not believe it is helpful to over-play or to oversimplify. This resolution runs counter to the spirit of his plea. It is not productive. When the gentleman from Pennsylvania (Mr. WELDON) and I can actually agree on something related to missile defense, we hope a few other Members will listen.

Finally, politics. This resolution will not help solve NMD’s technological problems. It will not resolve the ABM Treaty issues. It will not get us to deployment any faster. In my opinion, it serves no purpose other than a political one. The best thing we could do for national missile defense is to reduce the political and ideological motivation and focus on the technology, on the strategic and security issues.

For those reasons, I believe this resolution is ill-advised and should be withdrawn or defeated.

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

Let me just remind my colleague who just spoke that there are a couple of things that General Kadish did agree on with respect to the test. First, the intercept was made. The interceptor missile, traveling three times the speed of a high-powered rifle bullet, fired from Kwajalein Island did intercept a target missile coming from Vandenburg that also was going three times the speed of a high-powered rifle bullet. Literally, a bullet hit a bullet 130 miles above the earth in the mid-Pacific. That is a milestone.

It is true that we monitored this test with a lot of technology, that it is an in-depth test. There is a lot of analysis going on right now, and we are going to see how much information we harvest from this. But I would just tell my friend that I went on record before this test happened saying that I was going to support the continued funding of this program, whether it succeeded or failed, because I believe that this is an important national priority. That is my position.

But, nonetheless, if the gentleman looks at the enormity of American effort that went into this test, over 35,000 people in the uniformed services and out participating; and if this was a space shot, if this was an exploratory shot into space involving the Challenger or some other aspect of what I thought was a really important domestic, I would just tell my colleagues this test would have been given great publicity and great kudos by the media and the United States. I would remind my colleagues, these folks in the uniformed services who work on missile defense work just as hard, put in just as many hours and are just as ingenious as the folks that work on domestic space exploration.

I thought it was absolutely fitting, and I still do, to give them recognition. We have made it very clear. We say that there are going to be lots of failures as well as successes, and we understand that. This is not an attempt to change the ABM Treaty. It is an attempt to acknowledge the American genius that played itself out on Saturday night.

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

Mr. HAYES. Mr. Speaker, I thank the gentleman for yielding me this time, and I thank my colleagues for bringing this very important resolution to the floor.

I think about what I have heard this morning, and it occurs to me that some things that we debate here are not very clear, but others are quite clear. National security is spoken of in the Constitution as one of our primary responsibilities.

I do not really see this as a political or as a public relations issue. It is a philosophical issue. The gentleman from California (Mr. HUNTER) and others and myself believe that strong national security, the protection of our families and our country against foreign aggression with missiles is very important to our futures. This was a milestone. A technically very difficult assignment was met. It was successful, and we are moving in the right direction.

In this day and age, when philosophies clash here, I think it is important to set the record straight: This is about sound science; this is not science fiction. We have the ability to produce this protective system. It can be done only by continued effort to protect this country and future generations, and I applaud the gentleman from California (Mr. HUNTER), I applaud our men and women in uniform, and I think it behooves us to continue to support this resolution and to make sure that this country, both space and space inside and outside, are protected. I think this resolution is very timely.

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. KUCINICH).

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

Mr. Speaker, I sent a letter to Secretary Rumsfeld today which cites reports that certain modifications were
made to the test vehicle and warhead to greatly increase the likelihood of success.

In the letter, I state that Congress must know which modifications were made, how they contributed to the success, and the likelihood that such modifications won't become the engagement of the missile defense system.

I asked if the kill vehicle or dummy warhead employed a C-band radar system, and if so, at what stages was the C-band radar system used.

I asked, did either the GPS system or C-band radar system communicate with or reveal any information to the Target Object Map.

I asked if the software modifications to the tracking computer or infrared tracking system provided information to the kill vehicle not normally available in a real-life scenario.

I think before Congress acts on such a resolution, it would be nice to get an answer to some of these questions. Otherwise, what we have is a situation here where we are into a Frankenstein fantasy, where the threat of a nuclear strike against the United States is being exaggerated or it is nonexistent.

Our task as Nation and as a world should be to get rid of existing nuclear arms, to stop nuclear proliferation to new countries, to deal with arms control and arms elimination.

We have people who are actually predicting nuclear war in the future. We are back to the days of the Cold War. We have a responsibility to work for peace, not through nuclear proliferation, not through nuclear rearmament, not through building bigger and better missile systems or systems which defeat the treaty or violate the non-proliferation treaty, but through the painstaking work, the daily work of diplomacy, of human relations, of seeking cooperation between nations.

It is fascinating that we have technology to restart the arms race, that we have technology which violates the nonproliferation treaty, that we have technology which violates the ABM treaty. But it would be even more fascinating if we used this opportunity to start over, to start the arms race, to start to build bigger and better systems.

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, today we are debating a resolution commending defense contractors and the military for the ballistic missile defense test of July 14, 2001. This test, not the personnel, mind you, but this test, is really something to condemn, not to commend.

The defense industry and the Pentagon have now passed their half-scaled-down, simplified test. This is really nothing to celebrate. When our schools have that failure rate, the President wants to close them down. The military-industrial complex is apparently held to a much lower standard.

More fundamentally, this test moves us even closer to violating the antiballistic missile treaty. Washington and ratified the ABM because we recognize that missile defense systems could destabilize more than they could protect.

We cannot go back on our word and abandon our national security. We cannot be a nation that approaches nonproliferation while really practicing escalation, and that is what this test has taken us down the road to. Instead of leading the way towards responsible disarmament, we are unraveling arms control agreements.

We must be a nation that decides where we really want to go. Do we want to go down a path to a new arms race, or forward to a real post-Cold War peace?

Attempts to build a national missile defense system are really not enhancing our national security, they are destabilizing the world, which I heard over and over again just 2 weeks ago from British Prime Minister Tony Blair. Violating treaties does not make the world a safer place.

Congress should not be celebrating spending billions and billions of dollars on national missile defense. We should be standing by our treaties, not have a system that is going to make us stand up and become more aggressive. We should be working to end nuclear proliferation, and we should be spending that money on vital national needs, such as health care, education, and housing.

Yes, there are dangers in the world, but missile defense systems will spark new arms races, nuclear proliferation, violated treaties, and destabilizations, and also billions in spending. These are the fruits of missile defense. That is nothing to celebrate.

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

Mr. Speaker, I would say that all Americans remember the fact that some 19 Americans were killed in Desert Storm by ballistic missiles. Those Americans who were killed by those incoming Scuds were not killed by tanks, they were not killed by machine gun fire, they were not killed by fighter attack aircraft, they were killed by high-speed missiles.

Those Scud missiles were going faster than a bullet, and we threw up some Patriot missiles, defending against those incoming Scuds. We got some, we missed some. There is a discrepancy as to how many we got and how many we missed. But by the end, when the smoke cleared, 19 Americans were dead and some 500 were wounded.

We have troops around the world, and at some point, and I think we have that point, we have to acknowledge that we are so close in the age of missiles. Missiles will kill Americans in the future, I think we can predict that, unless we build defenses.

The idea that unless we build a perfect defense, we do not have any defense, does not make any sense. Certainly some of those young people who were in Saudi Arabia who were the targets of those Scud missile attacks did not come home alive because some of those Patriots did not get defending against the attacks did hit their targets, and some of those Scuds were knocked out of the sky before they could kill Americans.

We have slow missiles, the Scuds; we have medium-speed missiles, the missiles like the SS-20s; and we have very high-speed missiles, like the Minuteman missiles like the target we shot at over the Pacific.

It is very clear these tests are going to get tougher. They have to get tougher to replicate what we think will be operational conditions. We are going to have lots of misses in the future. But for us not to pursue this capability to defend our troops and our people in American cities would render our obligation as a Congress of the United States to preserve national security.

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

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

Mr. Speaker, on Saturday night, in the euphoria after the test, General Kadish warned against reading too much into this single test. He warned that we are very close to a dark fantasyland, where the threat of a nuclear strike against the United States is being exaggerated or it is nonexistent.

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difficulty, countermeasures, and other things. We are going to see failures before we have a system that we can judge.

One further point, and it is a critical point. This system, the ballistic missile system and all its components, is different from the other weapons systems in the sense that it is affected and controlled by a treaty called the ABM treaty of 1972. This treaty, some support it, some do not. In any event, it is an integral part of our arms control relationship with the Soviet Union and today with Russia. It underlies START II, it makes possible START III, and we must be careful not to create a rupture with Russia over the provisions of the treaty. In anything we do, we should try to make it treaty compliant, or at least make it possible by a mutual amendment to the treaty.

If we deploy this system and create a rupture in our relationship with Russia, if we abrogate the ABM treaty and simply walk away from it defiantly, we can see the Russians, as they have threatened, pull out of START II, forego START III, and call an end to cooperative threat reduction, which has removed hundreds of warheads that were a menacing threat to us.

If we did that, if that was the end result, then the net result for our national security would be a greater threat and not a lesser threat as a result of deploying ballistic missile defense. Those sober words need to be borne in mind as we pass this celebratory resolution.

Mr. Speaker, I yield 30 seconds to the gentleman from Ohio (Mr. Kucinich).

Mr. KUCINICH. I think we can all appreciate the work of all Federal employees who work in defense-related matters, but that is not really what this resolution’s subtext is about. This is an attempt to approve a process which abrogates the ABM treaty and which, in its essence, will restart the arms race.

There is no reason for the United States and Russia and China to be engaged in a showdown over nuclear arms. We need to get rid of nuclear weapons, we need to enforce our arms treaties, and we need not to move forward with this Star Wars program which wastes taxpayer dollars and which diverts us from the necessary work of building a new peace in our world.

Mr. HUNTER. Mr. Speaker, I yield 30 seconds to the gentleman from Georgia (Mr. Linder).

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

If this is, as he is describing, the debate over this system, as to whether the science is there or not, because I recall a time 30 years ago when President Kennedy, with great courage, said, “We will put a man on the moon by the end of this decade.” And we did not have any of that science, but we achieved it. When this Nation can put itself behind a project, it will succeed.

Mr. HUNTER. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, to conclude this debate, we are saying to the men and women of the Armed Services, to the men and women of the Ballistic Missile Defense Organization, and all those folks in big and small businesses, the 35,000 people that made that test a success, good work. It was a job well done. Now let us roll up our sleeves and go on to the next challenge.

GENRAL LEAVE

Mr. HUNTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this legislation.

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

There was no objection.

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

Mr. Speaker, the gentleman from South Carolina (Mr. SPARR) mentioned a golf course. The Republicans did beat the Democrats in the annual golf tournament yesterday, with the leadership of the gentleman from Ohio (Mr. OXLEY). I know he will be interested in that.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. HUNTER) that the House suspend the rules and agree to the resolution, House Resolution 195.

The question was taken.

The SPEAKER pro tempore. The opinion of the Chair, two-thirds of those present have voted in the affirmative.

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will now put the question on motions to suspend the rules on which further proceedings were postponed earlier today.

The vote was taken by electronic vote after the time for any electronic vote after the first such vote in this series.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

CONTINUING NATIONAL EMERGENCY WITH RESPECT TO SIERRA LEONE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 107-102)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

As required by section 401(c) of the National Emergency Economic Powers Act, 50 U.S.C. 1611(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), I transmit here-with a 6-month periodic report on the national emergency with respect to Sierra Leone that was declared in Executive Order 13194 of January 18, 2001.

GeORGE W. BUSH


RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until approximately noon.

Accordingly (at 11 o’clock and 44 minutes a.m.), the House stood in recess until approximately noon.

[1200]

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SIMPSON) at noon.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will now put the question on motions to suspend the rules on which further proceedings were postponed earlier today.

VOTES WILL BE TAKEN IN FOLLOWING ORDER:

S. 360, by the yeas and nays; H. Res. 195, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

HONORING PAUL D. COVERDELL

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 360.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. HYDE) that the House suspend the rules and pass the Senate bill, S. 360, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 330, nays 61, answered “present” 11, not voting 31, as follows:

[Roll No. 229]

YEAS—330

Acknowledgment of those present and absent:
The vote was taken by electronic device, and there were—yeas 321, nays 77, answered “present” 6, not voting 29, as follows:

### Roll No. 230

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### Roll No. 230

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| Mr. Q.雷斯托 | 
| Mr. Petri | 
| Mr. Roybal-Allard | 
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| Mr. Petri | 
| Mr. Roybal-Allard | 

### Roll No. 230

| Members | |
|---------||
| Mr. Kinzinger | 
| Mr. Q.雷斯托 | 
| Mr. Petri | 
| Mr. Roybal-Allard | 
| Mr. Nygren | 
| Mr. Q.雷斯托 | 
| Mr. Petri | 
| Mr. Roybal-Allard |
CONSTITUTIONAL AMENDMENT AUTHORIZING CONGRESS TO PROHIBIT PHYSICAL DESECRATION OF THE FLAG OF THE UNITED STATES

Mr. SENSENBERGREN. Mr. Speaker, pursuant to House Resolution 189, I call up the joint resolution (H. J. Res. 36) an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to House Resolution 189, the joint resolution is considered read for amendment.

The text of House Joint Resolution 36 is as follows:

H. J. RES. 36

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring thereon),

SECTION 1. CONSTITUTIONAL AMENDMENT.

The following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

ARTICLE —

The Congress shall have power to prohibit the physical desecration of the flag of the United States.

The SPEAKER pro tempore. After two hours of debate on the joint resolution, it shall be in order to consider an amendment in the nature of a substitute, to be offered by the gentleman from Michigan (Mr. CONYERS), or his designee, which shall be considered read and debatable for 1 hour, equally divided and controlled by the proponent and an opponent.

The gentleman from Wisconsin (Mr. SENSENBERGREN) and the gentleman from Michigan (Mr. CONYERS) each will control 1 hour of debate on the joint resolution.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBERGREN).

GENERAL LEAVE

The amendment itself does not prohibit flag desecration; it merely empowers Congress to enact legislation to prohibit the physical desecration of the flag and establishes boundaries within which it may legislate.

The American flag serves as a unique symbol of the ideals upon which America was founded. It is a national asset that helps preserve our unity, our freedom, and our liberty as Americans. This symbol represents our country's many hard-won freedoms, paid for with the lives of those men and women. The American people want their elected representatives to protect this cherished symbol.

Prior to the Supreme Court's ruling in 1989 in Texas v. Johnson, 48 States and the Federal Government had laws prohibiting desecration of the flag. Since that ruling, however, neither the States nor the Federal Government have been able to prohibit its desecration. In Johnson, the court, by a 5 to 4 vote, held that burning an American flag as part of a political demonstration was expressive conduct protected by the first amendment.

In response to Johnson, Congress overwhelmingly passed the Flag Protection Act of 1989, which amended the Federal flag statute to focus exclusively on the conduct of the actor, irrespective of any expressive message he or she might be intending to convey.

In 1990, the Supreme Court, in another 5 to 4 ruling, in U.S. v. Eichman, struck down the statute as an infringement of expressive conduct protected by the first amendment, despite having also concluded that the statute was content-neutral. According to the Court, the Government's desire to protect the flag is implicated only when the person's treatment of the flag communicates a message to others. Therefore, any flag desecration statute, by definition, will be related to the suppression of free speech, and, thus, runs afoul of the first amendment.

Prohibiting physical desecration of the American flag is not inconsistent with first amendment principles. Until the Johnson and Eichman cases, punishing flag desecration had been viewed as compatible with both the letter and spirit of the first amendment, and both Thomas Jefferson and James Madison strongly supported government actions to prohibit flag desecration.

The first amendment does not grant individuals an unlimited right to engage in any form of desired conduct. Urinating in public or parading through the streets naked may both be done by a person hoping to communicate a message; yet both are examples of illegal conduct during which political debate or a robust exchange occurs.

As a result of the Court's misguided conclusions in Johnson and Eichman, however, flag desecration, or what Justice Rehnquist described as a "grunt,"
now receives first amendment protection similar to that of the pure political speech that the first amendment speech clause was created to enhance.

In the years since the Johnson and Eichman rulings were handed down, 49 States have adopted resolutions calling upon Congress to pass a constitutional amendment to protect the flag and send it back to the States for ratification. Although a constitutional amendment should only be approached after much reflection, the Supreme Court's conclusions in Johnson and Eichman have left the American people with no other alternative but to amend the Constitution to provide Congress the authority to prohibit the physical desecration of the American flag.

In a compelling dissent from the Johnson majority's conclusion, Chief Justice Rehnquist, joined by Justices O'Connor and White stated: “The American flag, then, throughout more than 200 years of our history, has come to be a symbol emblematic of the American Nation. It does not represent the views of any particular political party, and it does not represent any particular political philosophy. The flag is not simply another 'idea' or 'point of view' competing for recognition in the marketplace of ideas. Millions and millions of Americans regard it with almost mystical reverence, regardless of what sort of social, political, or philosophical beliefs they may have.

My colleagues propose an amendment that is bipartisan legislation supported by Americans from all walks of life because they know the importance of this cherished national symbol. I urge my colleagues to support this important constitutional amendment.

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

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

Mr. Speaker, if one does not have much time, this is a great way to spend the afternoon, discussing for the fifth time whether the Congress should amend the Constitution with reference to flag desecration. Now, the answer has been "no" all of these other times. So I ask the House rhetorically, why does not the other body take this measure up first, for once, instead of us? Is there some protocol not known to the ranking member of the committee? There are many other things that could be done in the interest of furthering the democratic spirit of the United States.

Now, on behalf of everybody in the House, I would like to be the first to assert the boilerplate language so that my colleagues will not all have to repeat it again. I deplore desecration of the flag in any form, but I am strongly opposed to this resolution because it goes against the ideals and elevates a symbol of freedom over freedom itself.

I would like unanimous consent to say that for everybody that is going to want to say that, to make sure that everybody understands that those who oppose this measure are patriotic and are not by implication, direct or otherwise, supporting any kind of desecration of the flag. We do not do that. That is not what we are here for.

So that leaves two other points to be made, the same ones made before. The first is Justice Oliver Wendell Holmes. This is 1929: "The Constitution protects not only freedom for the thought and expression we agree with, but freedom for the thought we hate." Okay, got that? All right. That is five times in my career that we go through this.

The other point that should be made is that, in 1989, the Supreme Court said that all the State laws in the country banning flag-burning and making it illegal are themselves illegal. Then the Congress tried to do it. And the Supreme Court, not the most progressive part of the Federal system, said, no, you cannot do it, Congress.

And now, for the fifth time, we do not even agree on it ourselves. We do not want to do it. Basically, the legislative body of the United States of America does not want to make an amendment to our Constitution appropriate to accomplish what State laws tried and what Justice Oliver Wendell Holmes talked about, and many others.

In this area, we do not want to do it. It is not hard to make the decision when one knows what their values are, and one cannot rule by "but." People say, well, I deplore the burning of the American flag, but. It is not hard to make the decision when one knows their values and what they are by deed and kind.

I have in this folder literally hundreds of letters from third graders, from fourth graders, from fifth graders about what the flag means to them. This is more than just a piece of cloth. It is something that our children, our grandchildren, our grandparents have thought and talk about what it means to them. To watch somebody burn the American flag represents a destruction of those values, of those ideas and of those rights. That is why we are opposed to it.

I was witness to a young Hispanic that was protesting proposition 187. He was opposed to the proposition. But in his midst, there was a group of Hispanic kids that turned to burn the American flag. This young Hispanic grabbed the flag and protected it and was beaten by the group that was burning the American flag.

If we take a look at our Nation, every ethnic group stood behind this flag, every veteran's group. Mr. Speaker, 372 Members of this body, 372, voted for this amendment, and it will pass today. But yet, there is a group out there that would fight against it.

Mr. Speaker, if one has nothing more to do, watch us today? I hear that in disgust.

Mr. Speaker, as an example of what the flag means, I was overseas and there was a friend of mine that was a prisoner of war for 7 years. It took him 5 years to knit an American flag on the inside of his shirt, and he would share that flag with his comrades until the Vietnamese guards broke in, and they saw the POW without his shirt. They ripped the flag to pieces, and they threw it on the ground. They took him out, and they beat this POW for hours, and they brought him back, unconscious to the point where his comrades thought that he was not going to survive. His comrades comforted him as much as they could and they brought him back, unconscious to the point where his comrades thought that he was not going to survive. His comrades comforted him as much as they could and they brought him back, unconscious to the point where his comrades thought that he was not going to survive. His comrades comforted him as much as they could and they brought him back, unconscious to the point where his comrades thought that he was not going to survive.

Mr. Speaker, we are not here just to waste time. This is what this country stands for, its flag, whether it is the American flag or any other flag.

Mr. CONYERS. Mr. Speaker, I hope that my distinguished friend from California, I hope that his moving plea is
taken over to the other body, which every year turns back this work.

Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Ms. JACKSON-LEE), the distinguished ranking member of the subcommittee.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I would say to my esteemed and honorable friend, the gentleman from California (Mr. CUNNINGHAM), his cause is extremely noble. I honor him as I honor those who have served in the United States military and those who sit as Americans with the privilege and freedom of pledging allegiance to the flag of the United States, a nation representing the freest persons in the world.

Humbly I say in debate that I love America and I love the flag. I come from a generation that required the pledge of allegiance every single morning, and through the process of the Committee on the Judiciary, I have come to understand the value of the Constitution of the United States and the privileges that are given.

I may say that I also stand here as an American who did not come to this Nation free. I realize the importance of changing laws, for this Constitution declared me as three-fifths of a person, and the early history of this flag had slavery.

In spite of all of that, in a tumultuous civil rights movement, I can frankly say, I love America. But I am warned and cautious about what America stands for. I believe that America stands for freedom of expression, freedom of choices, freedom of the ability to express one’s religion, and, as well, to express one’s opposition.

In the last 20 years, I do not think any one of us could count a time that we have seen a flag-burning. I would simply express a very moving letter of my colleague suggested that, in fact, there might be question as to whether or not desecrating a flag includes sewing it into one’s pocket.

This Constitution and the symbol of the flag represents what we are as a nation. The flag is a symbol. This legislation which would require, an amendment to the Constitution of the United States counter what our Constitution stands for. If we just think about it, it counters what the flag stands for freedom and liberty.

Let me read very briefly the words of a veteran, a constituent of mine who wrote to urge us to oppose House Joint Resolution 36, the proposed constitutional amendment to outlaw desecration of the United States flag.

He agrees with other veterans, such as General Colin Powell and Senator John Glenn that such legislation is an unnecessary intrusion and a threat to the rights and liberties I chose to defend during my military service. Those who favor the proposed amendment say they do so in honor of the flag. But in proposing to unravel the first amendment, they desecrate what the flag represents and what I swore to defend and risked dying for when I took my military oath of office, the Constitution and the principles of liberty and freedom.

Mr. Speaker, that is why I am here on the floor of the House not to desecrate the flag or disrespect it, but to defend the principles of liberty and freedom. Do we need language to tell us how cherished and precious our flag is? Do we need to deny someone else their right to the opposition?

I am reminded of Christianity. It is not by the word we speak, but by our deeds. And if, in fact, our deeds are honoring the flag of the United States, then it will counter those deeds of someone else who we believe dishonors that flag, because we have the right to express our freedom and our beliefs, and they likewise have the right to express theirs.

I call upon this Congress, though I know this House has repeatedly voted three of four in favor of a particular resolution and it has not prevailed, but the Supreme Court, with which I have agreed and disagreed, twice has said the rules to eliminate the desecration of the symbol of the flag take away the rights under the Constitution and the principles we hold so dear.

I would much rather defend, if I was given the privilege, the gentleman’s right to speak in opposition to me, as opposed to upholding a cloth which I believe stands and boldly on its own without intrusion by legislation which denies the privilege of the rights of freedom and dignity.

I submit for the RECORD the letter to which I referred earlier, as follows:

HON. SHEILA JACKSON LEE,
Cannon House Office Building, House of Representatives, Washington, DC.

REPRESENTATIVE JACKSON LEE: As your constituent, I strongly urge you to oppose HJ Res. 36/SJ Res. 7, the proposed constitutional amendment to outlaw the desecration of the United States flag. I agree with other veterans such as General Colin Powell and Senator John Glenn that such legislation is an unnecessary intrusion and a threat to the rights and liberties I chose to defend during my military service. Those who favor the proposed amendment say they do so in honor of the flag. But in proposing to unravel the First Amendment, they desecrate what the flag represents, and what I swore to defend and risked dying for—when I took my military oath of office; the Constitution and its principles of liberty and freedom.

While flag burning is rare, it can be a powerful and important form of speech. As a patriotic American, I am troubled by the content of this political speech.

However, it is a far worse crime against this country and dishonors veterans that Congress annually attempts to take away our right to freedom of expression.

Again, I urge you to oppose HJ Res. 36/SJ Res. 7. Of the gallant Americans who fought and died in the service of our country within the last 20 years, I tell you this: They did not die defending the flag. They died defending our freedom and the ideals upon which our country was founded. Don’t cheapen their sacrifice by supporting this misguided amendment.

I look forward to hearing your thoughts on this proposed constitutional amendment. Respectfully,

CHARLES A. SPAIN, JR.

Mr. Speaker, I rise, once again, in opposition to this amendment to the Constitution to prohibit physical desecration of the flag of the United States because it is unnecessary and is a flagrant chilling of free speech protected by the First Amendment.

Supporters of this constitutional amendment are awaiting, according to the 1989 and 1990 Supreme Court decisions that struck down state and federal statutes that barred flag desecration on constitutional grounds that they chilled our First Amendment right to free speech and expression. The Court was right then, and we should follow its example today.

Mr. Speaker, make no mistake about it: this amendment compromises the Bill of Rights, which is fundamental to our freedom of speech and expression. These are, perhaps, our most sacred pillars of our American democratic system.

In West Virginia Board of Education v. Barnette, 319 U.S. 624 (1943), esteemed Justice Jackson wrote the following warning for the Congress to act with the wisdom of these citizens to force their thoughts upon the citizenry: “If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion or other matters of opinion or force citizens to confess by word or act their faith therein.” Id., at 642. The resolution on the floor today amends the Bill of Rights for the first time in 210 years, and would set a dangerous precedent by opening the floodgates for the restructuring of our democracy by eroding the basic tenants of freedom and liberty that define our Nation.

Furthermore, this amendment would open the door to excessive litigation because the wording is vague on its face. For example, the amendment fails to define “flag” and “desecration,” which are at the very heart of the amendment. These alone are reason enough to strike down the amendment on vagueness grounds.

Supporters of this amendment to constrain speech are a misdirected band of radicals who have read United States v. Eichman, 496 U.S. 310 (1990), as meaning that speech is somehow less of an affront to free speech than specific prohibitions like those in the repealed “Flag Protection Act of 1989.” The opposite is true: the amendment is overbroad, giving Congress the power to criminalize political and expressive acts of speech and expression that fall short of flag burning. Thus, the amendment we discuss today will result in a sweeping abridgment of the whole Bill of Rights. This body cannot be responsible for such a reckless act.

Mr. Speaker, I believe that our flag is a symbol of our freedom, our liberty, and our system of justice. I personally find flag burning and desecration to be offensive and disgraceful. But I stand with the Supreme Court in my belief such conduct falls within the scope of the First Amendment, the lynchpin of our democracy. So while it hurts to watch a few individuals who publicly desecrate our flag, the fact that we allow such speech is what makes us free and what makes us great as a nation. If we are truly defending the flag and the millions of Americans who have fought under it for the freedom that it represents, we must, above all else, protect the
Constitution and the Bill of Rights, and oppose such efforts to diminish the historical prece-
dent that they represent. As one of our na-
tion's greatest patriots, Colin Powell, recently stated about this amendment, "I would not
amend that great shield of democracy to ham-
mer a few federal nuts. The flag will be flying
groundly long after they have sunk away."

Mr. Speaker, our flag is a symbol of our
freedom, not freedom itself. I encourage my
colleagues to avoid the unwise path of unnec-
essarily amending the Constitution, and I urge
them to vote no on H.J. Res. 36.

Mr. SENSENBRENNER. Mr. Speak-
er, I yield 5 minutes to the gentleman from
Ohio (Mr. CHABOT), the chairman of the Subcom-
mittee on the Constitu-
tion.

Mr. CHABOT. Mr. Speaker, I thank the
gentleman from Wisconsin (Mr. SENSENBRENNER) for his leadership in
pushing for this amendment to be ar-
gued and debated today on the floor of the
House.

I also want to thank the principal
sponsor of this constitutional amend-
ment, the gentleman from California (Mr. CUNNINGHAM), who spoke with
such emotion and so eloquently just a
few moments ago. No one is more qu-
tilified in actually putting his life on the
line for our country than the gen-
tleman from California (Mr. CUNNINGHAM), I want to thank him for
that.

The flag is the most powerful symbol
of the ideals upon which America was
founded. It is a national asset that
represents. As one of our na-
tion's greatest patriots, Colin Powell, recently stated about this amend-
ment, itself does not pro-
hibit flag desecration. It merely em-
powers Congress to enact legislation to
prohibit the physical desecration of the
flag, and establishes boundaries within
which it may be done. Work on a stat-
ute will come at a later date, after the
amendment is ratified by three-fourths
of the States.

Vigilant protection of freedom of
speech and, in particular, political
speech, is central to our political sys-
tem. The first amendment freedoms do not
extend and should not be extended to
grant an individual an unlimited right
to engage in any form of desired con-
duct under the cloak of free expression.

Perhaps, most importantly, the
fact that some forms of expression and
sometimes even the content of that ex-
pression may be regulated and even
prohibited without violating the first
amendment.

We cannot burn our draft cards. We
cannot burn money. There are many
acts we cannot perform. The flag pro-
tection amendment simply reflects so-
ciety's interest in maintaining the flag
as a national symbol by protecting it
from acts of desecration. It will not interfere with an individual's
ability to express his or her ideas,
whatever they may be, by any other
means.

This amendment has been approved
by this Chamber twice and enjoys the
support of a supermajority of the
House of Representatives. It is sup-
ported by a majority of the United
States Senators and 49 out of 50 State
legislatures, which have passed resolu-
tions calling on Congress to pass the
amendment and send it back to the
States for ratification.

Perhaps, most importantly, the
amendment is supported by an over-
whelming majority of the American
people. It is time for Congress to an-
swer their calls to preserve and protect
the one symbol that embodies all that
our Nation represents.

For the veterans who risked their
lives for our country and our freedoms,
for our children who view our flag with
admiration and devotion, and for every
American who believes that our flag
deserves protection, I urge my col-
leagues to support this important
amendment.

Mr. CONYERS. Mr. Speaker, I think
to all of us have had this experience walk-
ing into the Capitol, especially at night
when we are in session, and we see our
beautiful American flag flying over the
Capitol of the freest country in the
world, and it is so moving it is almost
hard to keep walking by.

I think no matter where one comes
down on this amendment, there is not a
single Member of Congress who
thinks it is good or right to deface or
destroy our flag, and I urge my col-
leagues to support this important
amendment. 

Mr. LOFGREN. Mr. Speaker, I think
all of us have had this experience walk-
ing into the Capitol, especially at night
when we are in session, and we see our
beautiful American flag flying over the
Capitol of the freest country in the
world. Our country is free for a lot of
reasons. It is free because brave men
and women went out and risked their
lives for our country and our freedoms,
under God, with liberty and justice for all."

The flag stands for something. It
stands for the freest country in the
world. Our country is free for a lot of
reasons. It is free because brave men
and women went out and risked their
lives for our country and our freedoms,
under God, with liberty and justice for all."

But we are also free because we live
under the rule of law. One of the most
important aspects of that is the first
amendment. Let me just refresh our
memory on what the first amendment
says:

"Congress shall make no law
respecting an establishment of religion
or prohibiting the free exercise thereof,
or abridging the freedom of speech or
of the press or of the right of the peo-
ple peaceably to assemble and to peti-
tion the government for a redress of
grievances."

The Supreme Court, which has been
the interpreter of our Constitution
since the beginning of our Republic,
says wrongdoings towards our flag is protected by
the first amendment. These are not lib-
elous, wild-eyed justices, but Justice
Scalia, probably the most conservative
member of the Supreme Court, signed the opinion saying a flag desecration
is protected by the first amendment.

All of us, when we became Members
of this body, took an oath of office. We
said: ‘I do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and in this case domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose to elude the same; and that I will well and faithfully discharge the duties of the office in which I am about to enter,’” and then we say, “so help me God.”

I am not going to turn my back on the Constitution today.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. TRAFICANT).

Mr. TRAFICANT. Mr. Speaker, the Old Glory Condom Corporation lost the decision. They were not allowed to sell red, white, and blue condoms, so they appealed. They said their red, white, and blue condoms were a patriotic symbol, and, yes, Members guessed it, the U.S. Trademark Office of Appeals agreed. The panel said the Old Glory condom is not unconstitutional. One can wear it.

If that is not enough to conspire our veterans, two men from Columbus, Ohio, were recently charged with burning a gay pride flag during a parade. Think about it. It is illegal to burn leaves and trash in America. It is illegal to damage a mailbox. Now it is illegal to burn a gay pride flag. And it is completely legal and patriotic to wear a red, white, and blue condom.

Beam me up, Mr. Speaker. I think if American citizens want to make a political statement, they should burn their brassieres, burn their boxer shorts, but leave Old Glory alone, period.

I support this resolution. It is about time. A people that do not honor and respect their flag do not honor and respect our country. This is more than about a flag.

The gentleman from California is right, we pledge allegiance to the flag and to the Nation for which the flag stands; the flag, which our veterans carried in the war, those who were shot down, only to have it picked up by somebody else, surely to be shot down again. It should not be treated like an Old Glory condom.

I also urge this House to take up H.R. 2242 that would make June 14, Flag Day, a national holiday. I think the flag should be set apart, and it is certainly not a gay pride flag, nor is it anybody’s first amendment rights to do so.

Mr. CONYERS. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from Massachusetts (Mr. FRANK), a senior member of the Committee on the Judiciary.

Mr. FRANK. Mr. Speaker, I remark of the gentleman from Ohio give us a chance to deal with the common misapprehension and misunderstanding that somehow we have more rights to burn a flag than we have to burn other things. That simply is not true; and indeed, presumably the person who burned a gay pride flag had burned someone else’s gay pride flag. It is entirely up to someone to burn their own gay pride flag. It is not legal to burn someone else’s flag. If, in fact, we burn someone else’s American flag, we are guilty of theft, destruction of property, vandalism; and that, of course, can be punished.

We had an incident described where someone disrupted the funeral of a man who had been shot by a police officer and burned a flag. That was a violation of law on many counts. So we are not here advocating a policy whereby we may be able to burn a flag when we cannot burn anything else. Yes, there are many cities and States and communities that have laws against burning in certain seasons. No, the flag is not an exemption to that. So let us put that to rest. It is, of course, illegal to burn the flag, that we should make it illegal. We do not simply punish expression. We have an incident described where someone disrupted the funeral of a man who had been shot by a police officer and burned a flag. That was a violation of law on many counts. So we are not here advocating a policy whereby we may be able to burn a flag when we cannot burn anything else. Yes, there are many cities and States and communities that have laws against burning in certain seasons. No, the flag is not an exemption to that. So let us put that to rest. It is, of course, illegal to burn the flag, that we should make it illegal. We do not simply punish expression. We had an incident described where someone disrupted the funeral of a man who had been shot by a police officer and burned a flag. That was a violation of law on many counts. So we are not here advocating a policy whereby we may be able to burn a flag when we cannot burn anything else. Yes, there are many cities and States and communities that have laws against burning in certain seasons. No, the flag is not an exemption to that. So let us put that to rest. It is, of course, illegal to burn the flag, that we should make it illegal. We do not simply punish expression. We had an incident described where someone disrupted the funeral of a man who had been shot by a police officer and burned a flag. That was a violation of law on many counts. So we are not here advocating a policy whereby we may be able to burn a flag when we cannot burn anything else. Yes, there are many cities and States and communities that have laws against burning in certain seasons. No, the flag is not an exemption to that. So let us put that to rest. It is, of course, illegal to burn the flag, that we should make it illegal. We do not simply punish expression. We had an incident described where someone disrupted the funeral of a man who had been shot by a police officer and burned a flag. That was a violation of law on many counts. So we are not here advocating a policy whereby we may be able to burn a flag when we cannot burn anything else. Yes, there are many cities and States and communities that have laws against burning in certain seasons. No, the flag is not an exemption to that. So let us put that to rest. It is, of course, illegal to burn the flag, that we should make it illegal. We do not simply punish expression.
It seems to me that leaves us in an untenable position. Because either we believe that what an individual does to express himself or herself is not a matter for the law, or we say we value this one symbol but we devalue all the others. I think we shall have to decide as a society how people express themselves as freely as possible and having the rest of us argue against it. The alternative is to set the principle that if the Government does not outlaw something, it is somehow condoning it. And if it is not condoning, then desecration of a particular symbol, it somehow devalues that symbol.

I think that will do more damage because it will leave more valuable symbols in fact devalued by being excluded from this new form of protection. So I hope the amendment is defeated.

Mr. SENSBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. BACA).

Mr. BACA. Mr. Speaker, I stand in support of giving Congress the power to outlaw flag burning.

As a veteran, this issue is very important and close to my heart. As we look at it not only as a veteran but as we look at what has been said right now, when we talked about the constitutional amendment dealing with expression, freedom of expression, the right to liberty. We also have the right to interpret, when we look at the Constitution, to examine what our forefathers, the legislature the legislation sometime ago, actually meant. And sometimes there is time for a change, and this is a time for a change that we have to realize.

As a symbol, many of our veterans have fought for our country. Because of the sacrifices they have made, we enjoy peace and freedom today. Because of that symbol many individuals have died. When we look at someone who has been buried and the flag is turned over to the family, it is that symbol that is turned over. When I turn around and look at the flag behind me, it is that symbol I salute. When I attend a service, it is that symbol I salute. When I see the changing of the colors, it is that symbol, it is what America is. It is what this country was founded on.

To everyone who has fought for us, from the beginning to now, in each and every one of our wars, it is a form of expression. It is one we should have. We should never ever desecrate the flag.

When we look at many of the veterans that are willing to sacrifice and stand up and fight for us, what have they done? Are we going to say that they have gone out and fought in every war and that we do not realize there is a symbol? When someone fell with that flag and someone else picked it up and they charged, why did they do that? Because it is a symbol of freedom, freedom of expression for our area.

We must stand up and protect the flag. And let me tell my colleagues, anyone who desecrates the flag, shame on us, shame on them. It is time for a change. We have to make the change to protect what America was built on; those freedoms that are very important to us. That flag is part of that freedom and that symbol and represents every American, every individual in this country.

Mr. CONYERS. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from New York (Mr. NADLER), the ranking member on the Subcommittee on the Constitution of the Committee on the Judiciary.

Mr. NADLER. Mr. Speaker, I rise in opposition to this misguided constitutional amendment and urge my colleagues to vote against it.

We are faced today with a choice that will be, for many Members of this body, a difficult one. The choice, put simply, is between a symbol, a revered symbol, and the fundamental values it represents. The flag of the United States is a symbol. It is a symbol that has the power, indeed, power, when we see the picture of the flag being raised by the Marines over Mt. Suribachi or when we see it draped over a casket or when we see it being carried in the streets as a symbol of the fight for freedom. That is why, for so many others, it is that symbol. It is what Kiah and King and so many other courageous individuals over the years who fought to ensure that America would one day live up to its promise, it is hard not to be moved. Indeed, Mr. Speaker, as we stand here today knowing what would be the very first amendment to the Bill of Rights, I feel humbled to look at the flag hanging behind you in this Chamber and know that a very heavy responsibility weighs on every Member of this House.

We have heard and will hear many moving arguments about the sacrifices made for the flag, of the people who died for the flag, the soldiers, of the importance of the flag to so many Americans. But the real significance of the flag is those important values, the fundamental freedoms, and the way of life it represents. That is why so many have sacrificed so much. Not for the peace of colored cloth, but for those values. And we dishonor their sacrifice, we ensure that those sacrifices were made in vain if we now start down the road to undermine the freedoms the flag represents, allegedly to protect the flag.

Let us not revere the symbol over what it represents. Let us not render our flag a hollow symbol. It has been said that the sin of idolatry is the sin of elevating the symbol over the substance. The substance we are talking about is liberty and freedom of expression. It is that that we must protect, and it is that which this amendment jeopardizes.

Mr. Speaker, veterans, General Colin Powell, religious leaders, and many other Americans understand how important our freedom of expression really is. It is times politically unpopular, even if it may offend people, even if it makes people angry, even if it costs votes. If those who came before us were willing to place their lives, their fortunes, and their sacred honor for those freedoms, I think we can risk some votes to secure their continuance.

We have debated this amendment many times. We all know the arguments. It might be easy to trivialize the question we have debated so many times, but this is serious business because we are talking about amending the first amendment, the amendment that protects our freedoms since the beginning of our Nation.

If any Member has any doubts about whether this amendment is about protecting the flag or otherwise constraining freedom of expression, they should ask themselves, what is the difference between burning an old tattered flag, which U.S. law and the American Legion tell us is the appropriate, respectful way to dispose of a flag, and burning it illegally? There is only one difference, and that is the opinion, the political opinion, the message being conveyed, and we are criminalizing the message.

We have all seen, and we have become everyone in this Chamber has watched movies over the years, and we have seen movies in which actors play enemy soldiers, Nazi soldiers, Chinese Communist soldiers in Korea; and during those movies that they desecrate the American flag, they tear it to bits or trample upon it or spit upon it or burn it. No one suggests we ought to arrest the actors. No one suggests the actors have committed a crime because they are playing a role. The only crime this amendment seeks to create is not for those actors to destroy the flag in some future movie, it is for someone to burn the flag or otherwise disrespect it in the course of a political protest.

Is it why is it that by burning a flag to make a point by burning a flag, and turning it in a protest, they want to make a point by burning a flag? And turning it in a protest, that it is the intent of the sponsors to crack down on that form of flag desecration? Mr. Speaker, our freedoms are more important than any one individual who wants to make a point by burning a flag. Our country has survived those few individuals who want to burn the flag.

Our country will rise above it in the future. The real damage to the flag is that too many people may be willing to
deprecate our Bill of Rights to make a political point. That is something that will be very hard for this Nation to rise above, and that is why this amendment must be defeated.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, I rise today to pledge my enthusiastic support for the flag protection amendment. I will be darned if I am going to accept the technicalities that we talk about and we have heard this afternoon.

I know the law is technical, but we are bogged down in technicalities. There is a breeze, a gentle breeze going through these Chambers today. Seven hundred thousand brave men and women gave their lives since the beginning of this Republic. We ought to seize back the responsibilities given to us by the voters. We should never kowtow to any other branch of government, regardless of its designation.

The Supreme Court is not absolute. Only God is absolute on any decision. The fact that we quote Justice Scalia makes me stronger in my conviction that we must pass this.

This is a rambling discussion probably guaranteed to put the reader to sleep, but I pull together some of the history of the oath of office. I intend to distribute it to all Members next month and seek out their thoughts and criticisms.

In the course of that research, I ran across some vignettes from history that I think are relevant to this debate today. Let me share with you some news stories taken from the New York Times in years of great strife worldwide.

The first one I would like to read is from April 7, 1917. Headline: Diners Sent Slight to the Anthem. Attack a Man and Two Women Who Refuse to Stand When It Is Played.

There was much excitement in the main dining room at Rector's last night following the playing of the "Star Spangled Banner." Frederick S. Boyd, a former reporter on the New York Call, a Socialist newspaper, was dining with Miss Jessie Ashley and Miss May R. Towle, both lawyers and suffragettes.

The three alone of those in the room remained seated. There were quiet, then loud and vehement protests, but they kept their chairs. The angry diners surrounded Boyd and the two women and blows were struck back and forth, the women fighting valiantly to defend Boyd. He cried out he was an Englishman and did not have to get up, but the crowd would not listen to explanation.

Boyd was beaten severely when Albert Dasburg, a head waiter, succeeded in reaching his side. Other waiters closed in and the fray was stopped. The guests insisted upon the ejection of Boyd and his companions, and they refused to do so. They refused to do so and they were escorted to the street and turned over to a policeman who took Boyd to the West 47th Street Station, charged with disorderly conduct.

Before Magistrate Corrigan in Night Court Boyd repeated that he did not have to rise at the playing of the national anthem, but the court told him that while there was no legal obligation, it was neither prudent nor courteous to do so in these tense times. The court ruled Boyd guilty of disorderly conduct and was released on a suspended sentence.


Riotous scenes attended a Socialist parade today which was announced as a peace demonstration. Thousands of the marchers were broke up by self-organized squads of uniformed soldiers and sailors, red flags and banners bearing socialist mottos were trampled on, and literature and furnishings in the Socialist headquarters in Park Square were thrown into the street and burned.

At Scollay Square there was a similar scene. The American flag at the head of the line was seized by the attacking crowd, which had been playing "The Marseillaise," with some interruptions, was forced to play "The Star Spangled Banner," while cheers were given for the flag.

From April 5, 1912. Headline: Forced to Kiss the Flag. 100 Anarchists Are Then Driven from San Diego.

Nearly 100 industrial workers of the world, all of whom admitted they were anarchists, knelt on the ground and kissed the folds of an American flag at dawn today near San Onofre, a small town 15 miles to the south of the San Diego Union office, which had been playing "The Marseillaise," with some interruptions, was forced to play "The Star Spangled Banner," while cheers were given for the flag.

Mr. SHOWS. Mr. Speaker, I rise today in support of House Joint Resolution 36, which would outlaw the physical desecration of the American flag.

Our flag represents the cherished freedoms Americans enjoy to the envy of other Nations. To our Nation's veterans and military retirees, it is a constant reminder of the ultimate sacrifice they have made. Destroying our flag is an affront to all Americans, but to veterans and military retirees it is much more than that. Our veterans and military retirees have put their lives on the line for our country, and the American flag is one thing they can hold and say, "This is what I have defended with my life."

My father was a prisoner of war in World War II, captured at the Battle of the Bulge. He fought to protect our democratic freedoms. If I did not vote for this resolution today, he would whip me, and I am 54 years old.

Mr. Speaker, he did not fight to let Americans destroy the very symbol of
their very freedoms that he was willing to die for. Destroying the flag is tantamount to physically assaulting those heroes who would lay down their lives for their country. It is against the law for one American to assault another, and so it should be against the law for one American to assault an entire class of American heroes.

Mr. Speaker, we need to honor America’s heroes and pass the resolution.

Mr. CONYERS. Mr. Speaker, I yield 8 minutes to the gentleman from New York (Mr. ACKERMAN).

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

Mr. ACKERMAN. Mr. Speaker, the Founding Fathers must be very puzzled looking down on us today. Instead of seeing us dealing with the very real challenges that face our Nation, they see us laboring again under this compulsion to amend the document that underpins our democracy. They see a house divided, trying to give the government a new great power at the expense of the people and, for the first time, to stifle dissenters and the way in which they dissent.

The threat must be great, they must be saying, to try to get under our skin, to try to get under our Constitution to save our democracy. They see our bill of rights being eroded into the Bill of Rights and Restrictions.

What is the threat? What is the threat, Mr. Speaker? I ask again, what is the threat? Is our democracy at risk? What is the crisis to the Republic? What is the challenge to our way of life? Where is our belief system being threatened? Are people jumping from behind parked cars, waving burning flags at us, trying to prevent us from getting to work and causing America to grind to a halt?

Mr. Speaker, do we really believe that we are under such a siege because of a few lose cannons? Do we need to change our Constitution to save our democracy, or are we simply offended?

The real threat to our society is not the occasional burning of a flag, but the permanent hounding of the burners. The real threat is that some of us have now mistaken the flag for a religious icon to be worshipped as pagans would, rather than to be kept as the beloved symbol of our freedom that is to be cherished by all.

These rare but vile acts of desecration that have been cited by those who would propose changing our founding document do not threaten anybody. If a jerk burns a flag, America is not threatened. If a jerk burns a flag, democracy is not under siege. If a jerk burns a flag, freedom is not at risk and we are not threatened. My colleagues, we are offended; and to change our Constitution because someone offends us is in itself unconscionable.

Mr. Speaker, courts have said that the flag stands for the right to burn the flag. The Nazis and the Fascists and the Imperial Japanese Army combined could not diminish the constitutional right of even one single American. Yet, in an act of cowardice, we are about to do what they could not.

Mr. Speaker, where are the patriots? Where are the patriots? Whatever happened to fighting to the death for the rights of someone with whom we disagree? We now choose, instead, to react by taking away the right to protest. Even a despicable low-life malcontent has a right to disagree, and he has the right to burn the flag—depending upon his wishes. That is the true test of free expression, and we are about to fail that test.

Real patriots choose freedom over symbolism. That is the ultimate contest between substance and form. Why does the flag need protecting? Is it an endangered species? Burning one flag or burning 1,000 flags does not endanger it. It is but a symbol. But change just one word of the Constitution of this great Nation, and it and we will never be the same.

We cannot destroy a symbol. Yes, people have burnt the flag, but, Mr. Speaker, it still exists. There it is, hanging right in back of us. It represents the freedom we have died for.

Poets and patriots will tell us men have died for the flag, but that language itself is symbolic language. People do not die for symbols. They fight and they die for freedom. They fight and they die for democracy. They fight and they die for values. To fight and die for the flag is to fight and die for the cause in which we believe. Today some would have us change all of that.

We love and we honor and respect our flag for that which it represents. It is but a symbol. But change just one word of the Constitution of this great Nation, and it and we will never be the same.

We cannot destroy a symbol. Yes, people have burnt the flag, but, Mr. Speaker, it still exists. There it is, hanging right in back of us. It represents the freedom we have died for.

No, not because of the colors or the shape or the design. They mostly have stars and some have stripes and scores and dozens are red, white, and blue.

Our flag is unique because it represents our unique values. It represents tolerance for dissent. This country was founded by dissenters that others found obnoxious.

What is a dissenter? In this case it is a social protestor who feels so strongly about an issue that he would stoop so low as to try to get under our skin, to try to rile us up to prove his point, and to have us react by making this great Nation less than it was.

How do we protect our democracies and dictators make political prisoners of those who burn their Nation’s flags, not democracies. We tolerate dissent and dissenters, even the despicable dissenters.

What is the flag, Mr. Speaker? The American flag? Yes, it is a piece of cloth. It is red, it is white and blue. It has 50 stars and 13 stripes. But if we pass this amendment and desecrators decide to start a cottage industry and make flags with 55 stars and burn them, will we rush to the floor to amend the Constitution again?

If they add a stripe or two and set it ablaze, surely it would look like our flag, wouldn’t it? Do we want our stripes burned before we determine whether or not we are constitutionally offended? What if the stripes are orange instead of red? How do we interpret that? What mischief do we do here? If it is a full color, full-sized picture of a flag, could they be forced to desecrate a symbol of a symbol? What are we doing?

Our beloved flag represents this great Nation. Mr. Speaker, we love our flag because there is a republic for which it stands, made great by a Constitution that we have sworn to protect, a Constitution given to our care by giants and about to be nibbled to death by dwarfs.

Mr. Speaker, I call upon the patriots of our House to rise and to defend the Constitution, to resist the temptation to drape ourselves in the flag and to hold sacred the Bill of Rights. Defend our Constitution. I urge the defeat of this ill-conceived amendment.

Mr. Sensenbrenner. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. HYDE), the distinguished former chairman of the Committee on the Judiciary.

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

Mr. HYDE. Mr. Speaker, I do not intend to ascribe cowardice or lack of patriotism to people who disagree with me, although I listened to the last speaker ask, where are the patriots? I could direct him to some. Try Bob Stump who lied about his age so he could enlist in the Navy in World War II. There are plenty of patriots around.

I have earned the right to stand here and debate this issue. I fought to the death in combat in the South Pacific in World War II. I like to think I am almost as patriotic as the gentleman named ACKERMAN.

I heard rights, rights, rights. Not one word about responsibility. Responsibility. But that is part of this debate. This is a good debate. We ought to once in a while look at our core principles and see if there is anything that distinguishes us from the rest of the world.

We look around the world and we see the splendid diversity of America. We see men and women whose great grandparents came from virtually every corner of the globe. Who holds this democratic community together? A common commitment to certain moral norms. That is the foundation of our democratic experiment.

Human beings do not live by abstract ideas alone. Those ideas are embodied in symbols. And what is a symbol? A symbol is much more than a sign. A sign confers no information. A symbol is much more richly textured. A symbol is material reality that makes a spiritual reality present among us. An octagonal
Some of Independence. The flag is a symbol. Vandalizing a No Parking sign is a misdemeanor, but burning the flag is a hate crime, because burning the flag is an expression of contempt for the moral duty of the American people that the flag symbolically makes present to us every day.

Why do we need this amendment now? Is there a rash of flag burning going on? Certainly not. But we live in a time of growing disunity. Our society is prey to the powerful centrifugal force of racism, ethnicity, language, culture, gender, and religion. Diversity can be a source of strength, but disunity can be a source of peril. If you stop and think, the world is torn by religious and ethnic divisions that make war and killing and death and terror the norm in so many countries: Ireland, the Middle East, the Balkans, Rwanda. Look around the globe and see what hate can do to drive fellow human beings apart.

This legislation makes a statement that needs to be made, that our flag is the transcendent symbol of all that America stands for and aspires to be and hence deserves special protection in the debate.

We Americans share a moral unity expressed so profoundly in our country’s birth certificate, the Declaration of Independence. “We hold these truths to be self-evident,” Jefferson wrote. The truth that all are equal before the law. We share that, across race, gender, religion. The truth that the right to life and liberty is inalienable and inviolable. The truth that government is intended to facilitate and not impede the people’s pursuit of happiness.

Adherence to these truths is the foundation of civil society, of democratic culture in America.

And what is the symbol of our moral unity amidst our racial, ethnic, and religious diversity? Old Glory, the stars and stripes.

In seeking to provide constitutional protection for the flag, we are seeking to protect the moral unity that makes American democracy possible. We have spent the better part of the last 30 years telling each other, shouting to each other, all the things that divide us. It is time to start talking about the things that unite us, that make us all, together, Americans. The flag is the embodiment of the unity of the American people. It is built on the “self-evident” truths on which the American experiment rests, the truths which are our Nation’s claim to be a just society.

Let us take a step toward national reconciliation, and toward constitutional sanity, by adopting this amendment. The flag is our connection to the past and proclaims our hopes and aspirations for the future.

Too many Americans have marched behind it, too many have come home in a box covered by the flag, too many parents and widows have clutched the flag to their hearts as the last remembrance of their beloved to treat that flag with anything less than reverence and respect.

One hundred eighty-seven years ago during the British bombardment of Baltimore, Francis Scott Key looked toward the burning flag early dawn and asked his famous question. To his joy he saw our flag was still there. And how surprised he would be to learn our flag is even planted on the Moon.

But, most especially, it is planted in the hearts of every loyal American. Four Supreme Court justices agreed with us. A ton of professors agree with us. This is not a settled issue. Five to four Supreme Court justices came down on the side of the flag.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 4 minutes to the gentleman from Texas (Mr. PAUL).

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

Mr. PAUL. I thank the gentleman for yielding me this time.

Mr. Speaker, I do not think what we are doing here today is a contest between who is the most patriotic. I do not think that is it at all. Nobody here disagrees about patriotism. But I think the debate is possibly defining patriotism.

But I am concerned that we are going to do something here today that Castro did in Cuba for 40 years. There is a prohibition against flag burning in Cuba.

And one of the very first things that Red China did when it took over Hong Kong was to pass an amendment similar to this, to make sure there is no desecration of the Red Chinese flag. That is some of the company that we are keeping if we pass this amendment.

A gentleman earlier on said that he fears more of what is happening from within our country than from without. I agree with that. But I also come down on the side that is saying that the threat of this amendment is a threat to me and, therefore, we should not be so anxious to do this. I do not think you can force patriotism.

I also agree with the former speaker who talked about responsibility. I agree it is about responsibility. But it also has something to do with rights. You cannot reject rights and say it is all responsibility and therefore we have to write another law. Responsibility implies voluntary approach. You cannot achieve patriotism by authoritarianism, and that is what we are talking about here.

I think we all agree with respect to the flag and respect for our country. It is all in line with what we have to do this. And also the idea about flag burning. Because you are a veteran that you have more wisdom. I do not think so. I am a veteran, but I disagree with other veterans. Keith Kruel, who was a past national commander of the American Legion said: ‘‘Our Nation was not founded on devotion to symbolic idols, but on principles, beliefs, and ideals expressed in the Constitution and its Bill of Rights. American veterans who have protected our banner in battle have not done so to protect a ‘golden calf.’ A patriot cannot be created by legislation.’’

He was the national commander of the American Legion. So I am not less patriotic because I take this different position.

Another Member earlier mentioned that this could possibly be a property rights issue. I think it has something to do with the first amendment and freedom of expression. That certainly is important, but I think property rights are very important here. If you have your own flag and what you do with it, there should be some recognition of that. But the retort to that is, oh, no, the flag belongs to the country. The flag belongs to everybody. Not really. If you say that, you are a collectivist. That means you believe everybody owns everything. Who would manage the flag? Who would buy the flags? Who would take care of them? So there is an ownership. If the Federal Government owns a flag and you are on Federal property, even without this amendment, you cannot have the right to go and burn that flag. If you are causing civil disturbances, that is handled another way. But this whole idea that there could be a collective ownership of the flag, I think, is erroneous.

The first amendment, we must remember, is not there to protect non-controversial speech. It is to do exactly the opposite. So, therefore, if you are looking for controversy protection it is found in the first amendment. But let me just look at the words of the amendment. Congress, more power to the Congress. Congress will get power, not the States. That is the opposite of everything we believe in or at least profess to believe in on this side of the aisle.

To prohibit. How do you prohibit something? You would need an army on every street corner in the country. You cannot possibly prevent flag burning. You can punish it but you cannot prohibit it. That word needs to be changed eventually if you ever think you are going to get this amendment passed.

Physical desecration. Physical, what does it mean? If one sits on it? Do you arrest them and put them in jail? Desecration is a word that was used for religious symbols. In other words, you are either going to lower the religious symbols to the state or you are going to uphold the state symbol to that of religion. So, therefore, the whole word of desecration is a word that was taken from religious symbols, not state symbols. Maybe it harks back to the time when the state and the church was one and the same.

I urge a “no” vote on this amendment.

Mr. Speaker, loyalty and conviction are admirable traits, but when misplaced both can lead to serious problems.

More than a decade ago, an obnoxious man in Dallas decided to perform an ugly act: the
The correct solution is to reassert the 10th Amendment. The states should be unshackled from unconstitutional federal restrictions.

As a proud Air Force veteran, my stomach turns when I think of those who defile our flag. But I grow even more nauseous, though, at the thought of those who would defile our precious liberties conferred on us by the Constitution—loyalty to individual liberty, combined with a conviction to uphold the Constitution, is the best of what our flag can represent.

Mr. SENSENBRENNER, Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. Pence) as the proposer of amendment to restore Old Glory the protection amendment, we will raise Old Glory yet again. We will raise her above the decisions of a judiciary wrong on both the law and the history. And in some small way, we will raise the flag above the cynicism of our times, saying to my generation of Americans those most unwelcome of words, “There are limits.” To say to my generation of Americans, out of respect for all those who served beneath it and some who died within the sight of it, that there are boundaries necessary to the survival of freedom.

C.S. Lewis said, “We laugh at honor, and we are shocked to find traitors in our midst.” Leave us this day to cease to laugh at honor, to elevate to dishonor of our unique national symbol to some sacred right, and let us pass this amendment to restore Old Glory the modest protections of the law that those who venerate her so richly deserve.

Vote yes to the resolution and raise the American flag to her Old Glory again.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 3 minutes to the gentlewoman from Indiana (Ms. CARSON) who, previous to her congressional experience, worked in the field of labor with my late father. Ms. CARSON of Indiana. Mr. Speaker, I certainly thank the honorable gentleman from Michigan (Mr. CONYERS) for yielding me time. I did have the benefit of working for his father as an international representative when John was still running around trying to find out whether or not he was going to Congress. So it is a pleasure to come, Mr. Speaker, to the floor and join in this august and intellectual dialogue that preceded me.

I come here today to exercise a constitutional right granted to me as a citizen of the United States, and that is freedom of speech. I have a great deal of reverence for the United States flag. I wave it at my residence every opportunity, and am very saddened by those flags that are often lowered over capitol and buildings in commemoration of some fallen hero, if you will.

My adoration and respect, however, does not exceed my commitment to the integrity of the first amendment of the United States Constitution. Many of us learned in our educational experience of Patrick Henry, who said, “I may not agree with the way that you say, but certainly would defend your right to say it.” As I recall, Patrick Henry was in fact one of the signers of the Constitution.

One of my first and foremost commitments as a Member here is on behalf of our country’s veterans. My name, Julia Carson, is derived from a Vietnam veteran and former Senator Kerry, former head of the Joint Chiefs of Staff and our current Secretary of State, the Honorable Colin Powell, have expressed their opposition to this amendment. These are great men who served this country with distinction.

General Powell has stated, “If they are destroying a flag that belongs to someone else, that is a prosecutable crime. But if it is a flag they own, I really don’t want to amend the Constitution to prosecute someone for foolishly desecrating their own property. We should condemn them and pity them instead.”

These men feel that in spite of their own commitment to the integrity of the American flag, they do not want their personal views to infringe on the rights of free speech of other Americans.

Francis Scott Key wrote, and we all recall that tune, “O’er the ramparts we watch’d, were very gallantly flaming. And the rockets’ red glare, the bombs bursting in air, gave proof through the night that our flag was still there. O
say, does that star spangled banner yet wave, o’er the land of the free and the home of the brave?"

It does still wave, Mr. Speaker, despite House Resolution 36. Our flag will still be there. The constitutional amendment proposed here today is totally unnecessary. That is why I am going to vote against it.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. SAM JOHNSON).

(Mr. SAM JOHNSON of Texas asked and was given permission to revise and extend his remarks).

Mr. SAM JOHNSON of Texas. Mr. Speaker, it is a tremendous honor for me to be here today to support the protection of our American heritage, a symbol and a reminder of our cherished freedom, the American flag. The flag is a symbol of the birth of this great Nation and the many wars fought to win our freedom.

I spent 7 long years as a POW in Vietnam, half of that in solitary confinement. I think you heard the gentleman from California (Mr. CUNNINGHAM) relate earlier the story of Mike Christian, who was beaten for making a flag. He needed to remind himself of home and the freedom that it stands for. It was a symbol and great comfort to all of us. As POWs, we would pledge allegiance and salute it each day. That tiny, tiny flag sewn together meant so much to us, far away from home, more than words can describe.

I stand here today to honor all our military men and women who have fought throughout the years for this great Nation.

How about the Marine memorial, the Iwo Jima Memorial? Does that not mean something to you? I think that flag meant something to those boys that put it up there.

The Middlekauff Ford dealership in Plano, Texas built a huge flagpole and put an oversized flag on it. Do you know what? Some of the people said, It makes too much noise when the wind blows. It keeps us awake at night.

Do you know what Rick Middlekauff said? He said, ladies and gentlemen, that is the sound of freedom. And he left it up there, and they quit griping about it.

It is something that I think that we must respect. We must treat it with respect, free from desecration.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Illinois (Ms. SCHAUKOWSKY).

Ms. SCHAUKOWSKY. Mr. Speaker, I rise today as a proud and patriotic American to oppose this resolution. Here is what some of the veterans have said about this amendment.

Jack Heyman, Fort Myers Beach, Florida, a Korean War veteran, said, “I know of no American veteran who put his life or the lives of his fellow soldiers on the line to protect the sanctity of the flag. That is not why we fulfilled our patriotic duty. We did so and still do to protect our country and our way of life and to ensure that our children enjoy the same freedoms for which we fought.”

Mr. Heyman’s great grandfather was a Pennsylvania Regular during the Civil War; his father served in the Navy during World War II; his brother served in the Army during Vietnam; his children served in the Army following the Vietnam War.

Bill McCloskey, a Vietnam War veteran from Bethesda, Maryland, said, “Ultimately, our representatives on Capitol Hill must realize that when a flag goes up in flames, only a multi-colored cloth is destroyed. If our freedoms are lost, the true fabric of our Nation is frayed and weakened.”

Brad Bustany, West Hollywood, California, a Gulf War veteran, said, “My military service was not about protecting the flag; it was about protecting the freedoms behind it. The flag amendment curtails free speech and expression in a way that should frighten us all.”

And how will Congress begin defining what the flag and desecration even mean? Our flag is ubiquitous. It is found in such places as commerce, art and memorials. Will Congress bar desecration of the flag on brand-name apparel, defining it as desecration? Will flag-bathing suits be desecration, and thus prohibited? How will Congress enforce such an amendment? Where will this begin and where will it end?

Mr. Goodlatte. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. Clement).

Mr. CLEMENT. Mr. Speaker, I might say, the people of New York would be proud of you up there today.

Mr. Speaker, I thank the gentleman from Michigan (Mr. Conyers) very much for the comments that the State of Michigan in such an exemplary way for so many years. And I might say about him too, I used to live in the State of Michigan, even though it did not change my accent.

This bill is not about one’s freedom of speech; it is about one’s respect for our country and the rights provided by it.

As a veteran of the U.S. Army and serving 29 years in the Army National Guard, I do not have a problem with the need to respect our flag. But there are many out there who take this symbol for granted. It seems as though they fail to recognize what has been sacrificed over the past 225 years of our existence.

The flag not only serves as a sacred symbol of the principles upon which our Nation was founded, it also represents the many sacrifices our veterans have made throughout the history of our Nation to protect our precious freedoms and preserve our democracy.

I fully support one’s right to express himself or herself freely, but when it comes to Old Glory and displaying such a gross disrespect for something as precious as our national flag, I feel it is necessary for Congress to draw the line.

In this country, whatever idea a flag burner wants to communicate, can be expressed just as effectively in many other ways. Burning our flag communicates nothing but a lack of respect. We should not protect such horrendous behavior, when our forefathers, our
veterans and many patriotic citizens of our great land sacrificed and fought to protect the freedom it symbolizes.

This amendment to protect our flag is an appropriate and powerful "thank you" to every veteran who fought and died to defend this flag and the country for which it stands. This flag is a national asset.

The SPEAKER pro tempore (Mr. QUINN). The time of the gentleman from Tennessee has expired.

Mr. CONYERS. Mr. Speaker, I yield 1 additional minute to the gentleman from Tennessee (Mr. CLEMENT).

Mr. CLEMENT. Mr. Speaker, that is very gracious of the gentleman from Michigan (Mr. CONYERS), knowing the gentleman does not necessarily agree with my position totally, but he has always been fair as one of the great leaders in the House of Representatives.

Mr. SENSENBRENNER. Mr. Speaker, I rise in strong support of this amendment, and I hope that my colleagues will vote to support its passage.

I have heard from a lot of veterans at home, but not just veterans. I have heard from people from all walks of life. Mr. Speaker, we have a lot to be proud of in this country. We celebrated our 200th birthday in 1976. I would ask my colleagues, do they know what the average longevity of the great democracies of the past is? It is 200 years. We celebrated our 200th birthday in 1976. But if we want to celebrate our 300th birthday, we have to re dedicate and recommit ourselves.

Mr. Speaker, what I said a while ago is the way I feel. Yes, one can protest. Yes, one can disagree. Yes, one can feel frustrated in other ways. Support this amendment.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. HOSTETTLER).

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

Mr. Speaker, I rise in strong support of this proposed constitutional amendment. The need for such an amendment arises from a Supreme Court that has persistently stated that we must tolerate flag desecration as protected speech. Clearly, I believe the Supreme Court has it wrong.

The flag is a unique symbol that merits our special recognition. I find the words of the Pledge of Allegiance enlightening, and I respectfully appeal to the Supreme Court minority opinion to correct the matter. I find the words of the Pledge of Allegiance tell-
symbolic value of the flag without regard to the specific content of the flag burner’s speech. It is, moreover, equally clear that prohibition does not entail any interference with the speaker’s freedom to express his or her ideals by other means. It may well be the case that other prohibitions may be less effective in drawing attention to those ideas, but that is not itself a sufficient reason for immunizing rising flag burning. Presumably, a gigantic fireworks display or a parade of nude models in a public park might draw even more attention to a controversial message, but such methods of expression are none-the-less subject to regulation.”

‘There is a lot of talk about free speech, but passage of this will not prevent anyone from saying anything more than our law already does. If one does not like what the country is doing, or if one is upset about anything at all, one can stand on the street corner and say whatever comes to one’s mind, and that right is protected. It is part of what makes this country great that we have this freedom; that, despite differences of opinion, we still manage to move on and respect what other people have to say.

But while we enjoy this freedom of speech today, there are still certain things we cannot do or say by law. We have laws against libel, slander, perjury, obscenity and indecent exposure in public. Just as it is within the realm of Federal Government to limit this kind of conduct, it is also right for it to regulate a clear attack on its sovereignty and dignity by protecting our flag.

To me, our flag represents not only the sacrifices of those who came before us, but also the hope for our future generations. It is both the past and the present which makes us a great people and what so many Americans have fought so hard to preserve.

I am an active member of the Veterans’ Affairs Committee and have such constructive interaction with so many current and retired members of our Armed Forces. We have more than 350,000 veterans in the State of South Carolina, many of whom are in my district. If I can go back home and tell them anything, I can go back home and tell them anything. If I see someone desecrating the flag, I would do what I could to stop them at risk of personal injury or even incarceration. For me, that would be a badge of honor.

But I think this constitutional amendment is an overreaction to a nonexistent problem. Keep in mind, the Constitution has been amended 17 times since the Bill of Rights was passed in 1791. This is the same Constitution that eventually outlawed slavery, gave blacks and women the right to vote, and guarantees freedom of speech and freedom of religion.

Mr. Speaker, amending the Constitution is a very serious matter. I do not think we should allow a few obnoxious attention-seekers to push us into a corner, especially since no one is burning the flag now, without an amendment.

I agree with Colin Powell, who at the time was Chairman of the Joint Chiefs of Staff and is now the Secretary of State. General Powell wrote that it was a mistake to amend the Constitution, “that great shield of democracy, to hammer a few miscreants.”

When I speak about the flag, I think about the men and women who died defending it and the families they left behind.

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

What they were defending was the Constitution of the United States and the rights it guarantees, as embodied by the flag.

I love the flag for all it represents, but I love the Constitution even more. The Constitution is not just a symbol. It is the very foundation upon which our Nation was founded. I urge my colleagues to vote against this resolution.

Mr. CONYERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut (Mr. SHAYS).

Secondly, we have had the argument that this amendment amends the Bill of Rights. It does no such thing. There is no statement in the text of the amendment that the first amendment is anything other than as it stands in any way, or repealed in any way.

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Some also believe that the right to free speech is unlimited as a result of the first amendment. That is not the case at all. No one can shout “fire” in a crowded theater. No one can issue defamatory statements, whether verbally or in writing, without being called to account. There are limits on free speech, and 80 percent of the American people believe that a flag desecration constitutional amendment is a limit that we ought to have, not on speech but on actions.

Then we have heard that the Supreme Court of the United States, on a five-to-four decision, has said that this is protected political expression. We have heard that we should not amend the Constitution because we disagree with a Supreme Court decision.

Our Constitution has been amended 17 times since the Bill of Rights was ratified in 1791. More than 350 amendments overturned Supreme Court decisions that two-thirds of the Congress and three-quarters of the
In doing so, I rise to defend and protect the very symbol of our nation’s unwavering promise of hope and opportunity. I rise to defend the memory of countless Americans, both men and women, who sacrificed their lives fighting for their country in time of war so that the values and ideals represented by our nation’s symbol could be protected.
I rise to defend the integrity and the mission of our men and women in the armed forces today, who stand in defense of our Nation's Flag on American soil as well as foreign soil around the world, so that the very symbol of our nation's sense of duty, citizenship and allegiance to our community fabric unlike that of any other nation.

We must protect our Constitution from those seeking to distort it while cloaking themselves in a disguise of free speech. The American people cry out for us to do so. Forty-nine state legislatures have appealed to this Congress to pass a Flag protection constitutional amendment.

In conclusion, Mr. Speaker, I remind my colleagues that this a nation that promises more than just life, liberty and the pursuit of happiness. It is a nation that offers as its foundation of principles the dignity, respect and self-sacrifice for the ideals upon which it was built.

The passage of this resolution because it is the right thing for the Flag, and because it is the right thing for the United States of America.

Mr. KLECKZA. Mr. Speaker, the American flag is a visible symbol of all the elements that make our nation great. A strong military, a system of checks and balances, a government by and for the people. Underlying these ideals is the Constitution and the Bill of Rights, per- sonalized against our nation's sense of duty, citizenship and allegiance to our community fabric unlike that of any other nation.

Mr. SMITH of New Jersey. Mr. Speaker, as Chairman of the Veterans' Affairs Committee, I rise today to join with the vast majority of American citizens who support an amendment to the Constitution to protect the Flag of the United States from physical desecration. The amendment is a small element in fighting the Supreme Court's decision to allow the flag to be desecrated. That their sacrifice was in vain? That they were stupid and silly to have ever taken such risks? That they sweat- ed, ducked bullets, and bled to protect the flag from harm so some social miscreant could just trash it a few years later?

How can a symbol continue to be so endur- ing, and function to inspire such deeds of hero- ism, when we allow it to be desecrated? My colleagues, I submit that if we do not take action, the Flag will simply become a flat, empty, and function to inspire such deeds of heroism, when we allow it to be desecrated? My colleagues, I submit that if we do not take action, the Flag will simply become a flat, empty, and functional symbol of our freedom, liberty, justice and opportunity.

And it is those values we must protect.

I stand today with Jim Warner, a Vietnam veteran and former war, who said, "Rejecting this amendment would not mean that we agree with those who burned our flag, or even that they have been forgiven. It would, instead, tell the world that freedom of expression means freedom, even for those expressions we find repugnant."

In my hometown paper, which has editorialized against the "drastic step of amend- ing the Constitution because of the abhorrent conduct of that lone demonstrator and the handful of others who seek attention from time to time by defiling the flag of our nation's highest honor for bravery in combat.

To this very day, military units still field a color guard to honor the flag. The flag has served, and continues to serve, as a source of inspiration, courage, and purpose. I ask my colleagues: how can we justly allowing the flag to be blatantly dese- crated or burned, when so many of our brave soldiers have died, been wounded, or took enormous risks to protect the flag from harm? What could we possibly say to these persons, none of whom ever took such risks, to have desecrated the flag? That their sacrifice was in vain? That they were stupid and silly to have ever taken such risks? That they sweat- ed, ducked bullets, and bled to protect the flag from harm so some social miscreant could just trash it a few years later?

How can a symbol continue to be so endur- ing, and function to inspire such deeds of hero- ism, when we allow it to be desecrated? My colleagues, I submit that if we do not take action to protect our flag, it will simply become a flat, empty, and functional symbol of our freedom, liberty, justice and opportunity.

The flag of the United States of America needs to burning the flag as a sign of our free- dom. I believe that flag desecration is a slap in the face to the millions of American vet- erans who fought and died to protect the flag, and the democracy and liberty for which it symbolizes.

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our flag to be desecrated, and fail to protect it, we dishonor their sacrifice and their service.

Mr. Speaker, the Court was wrong in deciding the Texas v. Johnson case. It was wrong one year later when it reaffirmed this position in another 5-to-4 decision in United States v. Eichman. The amendment to the Constitution we are now considering, H. J. Res. 36, will overturn both decisions of the Court and grant the Congress the authority to enact constitutionally-permitted language to protect the flag.

The Supreme Court's 5-to-4 rulings on flag burning were most unfortunate and an erroneous interpretation of what our forefathers, and we as a people, define as free speech. The opponents of this amendment have tried to depict this as an infringement on the first amendment rights of all Americans. This is simply false.

Mr. Speaker, I yield to no one in my support of the first amendment. As Vice Chairman of the International Relations Committee and Co-Chairman of the Helsinki Commission, I have continually fought for the expansion of these freedoms throughout the world. I have worked for the release of countless prisoners of conscience whose only crime has been that they wanted to express political or religious ideas that their governments opposed.

I have had to learn the hard way just how difficult it is to assure that these same freedoms—freedom of conscience, freedom of speech, and freedom of religion—continue to be strongly protected here in the United States. However, Mr. Speaker, no right is unlimited.

There are those who claim that any limitation of the right to free speech is an intolerable infringement upon our rights guaranteed to us in the Bill of Rights. Upon single examination this proves to be totally false.

In a unanimous 1942 Supreme Court decision, Chaplinsky v. New Hampshire, the Court said:

... it is well understood that the right of free speech is not absolute at all times and under all circumstances. There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional question. These include the lewd and obscene, the profane, the libelous, and the insulting or ‘fighting’ words—those which by their very utterance inflict injury or tend to incite an immediate breach of the peace. It has been well observed that such utterances are no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality.

Mr. Speaker, there is also an important distinction to be drawn between the freedom to express an idea and the freedom to use any method to express that idea. While one has a right to express virtually any idea in a public forum, the means of expression can be regulated. As Justice Stevens pointed out in his dissent:

Presumably a gigantic fireworks display or a parade of nude models in a public park might draw even more attention to a cause than a speaking engagement, but such methods of expression are nevertheless subject to a regulation.

In his dissent in Texas v. Johnson, Justice Stevens said that the Court was wrong in asserting thatamer was prosecuted for expressing a political idea. Rather, Stevens went on to say, he “was prosecuted because of the method he chose to express his [idea].”

And again, Justice Stevens stated:

It is moreover, equally clear that the prohibition [against flag desecration] does not entail any interference with the speaker’s freedom to express his or her ideas by other means.

As Oliver Wendell Holmes asserted years ago, no one has the right to shout fire in a crowded movie theater.

Mr. Speaker, despite some of the claims made here today, it is constitutionally permissible to regulate both the content and the means of expression of free speech, provided that it is done only in certain very narrow and well-defined circumstances and only if an overriding public interest is threatened. Let me emphasize that the circumstances must be narrow, well defined and justified in the public interest.

Mr. Speaker, prohibiting the physical desecration of the flag is both a narrow and well-defined restriction. Despite arguments to the contrary, it is not the first step toward curtailing political dissent, nor is it impossible to define. This argument represents at best a gross distortion of the effect of this amendment.

This leaves only the question of whether the protection of the flag serves a purpose worthy of special consideration. On this point, as Chairman of the Helsinki Commission, I join with the overwhelming majority of the American public who say, emphatically, yes.

Since the creation of the American flag, it has stood as a symbol of our sacred values and aspirations. Far too many Americans have died in combat to see the symbol of what they were fighting for reduced to just another object of public derision. Simply put, it is a gross injustice to every patriotic American to see the symbol of our country publicly desecrated.

They will not tolerate it, and neither will I. Mr. Speaker, the amendment to the Constitution we are considering today will restore the flag to its proper position as a symbol of our Nation, without restricting the freedom of expression for any of our citizens. I would hope that all of my colleagues would join with me in support of this amendment.

Mr. MURTHA. Mr. Speaker, I’m proud to have joined with Congressman DUKE CUNNINGHAM in introducing this Constitutional Amendment to prohibit the desecration of the American Flag.

The American Flag is recognized around the world as a symbol of freedom, equal opportunity, and religious tolerance.

Many thousands of Americans fought and suffered and died in ways too numerous to list in order to establish and preserve the rights and freedoms that we so loudly defend. Rights which are symbolized by our Flag. It is a solemn and sacred symbol of the many sacrifices made by our Founding Fathers and our Veterans throughout several wars as they fought to establish and protect the founding principles of our great Nation.

Most Americans, Veterans in particular, feel deeply insulted when they see our Flag being desecrated. It is in their behalf, in their honor and in their memory that we have championed this effort to protect and honor this symbol.

We are a free Nation. No one would dispute that free speech is indeed a cherished right and integral part of our Constitution that has kept this Nation strong and its Citizens free from tyranny. Burning and destruction of the flag is not speech. It is an act. An act that inflicts insult—inflicts that strikes at the very core of who we are as Americans and why so many of us fought—and many died—for this country.

There are, in fact, words and acts that we as a free Nation have deemed to be outside the scope of the First Amendment—they include words and acts that incite violence; slander; libel; and copyright infringement. Surely among these, which we have rightly determined diminish rather than reinforce our freedom, we can add the burning of our Flag—an act that strikes at the very core of our national being.

No, this is not a debate about free speech. Our flag stands for free speech and always will.

Over 100 years ago some words were written that most of us remember reciting in school. They sum up what we vote on today:

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.

Let us join today in overwhelmingly passing this amendment to revere, preserve and protect our Flag, the symbol of our country, the embodiment of our principles, and the emblem of our people.

Mr. SIMMONS. Mr. Speaker, I rise today in strong support of House Joint Resolution 36, the Constitutional Amendment to prohibit flag desecration.

Our flag is the strongest symbol of the American character and its values. It tells the story of victories won—and battles lost—in defending the principles of freedom and democracy.

These are stories of real men and women who have selflessly served this nation in defending that freedom. Any many of them traded their lives for it. Gettysburg, San Juan Hill, Iwo Jima, Korea, Da Nang, Persian Gulf—our men and women had one common bond: the American flag.

The American flag belongs to them, as it belongs to all of us.

Supreme Court Justice Paul Stevens reminded us of the significance of our flag when he wrote:

The flag’s symbol is a symbol of more than nationhood and national unity. It also signifies the ideas that characterize the society that has chosen that emblem as well as the special history that has animated the growth and power of those ideas. So it is with the American flag. It is more than a proud symbol of courage, the determination, and the gifts of a nation that transformed 13 fledgling colonies into a world power. It is a symbol of freedom, of equal opportunity, of religious tolerance, and of goodwill for other peoples who share our world.

Critics of the amendment believe it interferes with freedom of speech. I disagree. Americans enjoy more freedoms than any other people in the world. They have access to public television. They can write letters to the editors to express their beliefs, or call in to talk shows. Americans can stand on the steps of the nation’s capitol building to demonstrate their cause.

They do not need to desecrate our noble flag to make their statement, and I do not believe protecting the flag from desecration deprives Americans of the opportunity to speak freely.

And let us be clear: speech, not desecration, is protected by the Constitution. Our
Founding Fathers protected free speech and freedom of the press because in a democracy, words are used to debate and persuade, and to educate. A democracy must protect free and open debate, regardless of how disagreeable some might find the views of others. Prohibiting flag desecration does not undermine that tradition.

The proposed amendment would protect the flag from desecration, not from burning. As a member of the American Legion, I have supervised the disposal of over 7,000 unserviceable flags. But this burning is done with ceremony and respect, not flag desecration.

Over 70 percent of the American people want the opportunity to vote to protect their flag. Numerous organizations, including the Medal of Honor Recipients for the Flag, the American Legion, the American War Mothers, the American G.I. Forum, and the African-American Women’s Clergy Association all support this amendment.

Forty-nine states have passed resolutions calling for constitutional protection for the flag. In the last Congress, the House of Representatives overwhelmingly passed this amendment by a vote of 310–114, and will rightfully pass it again this year.

Mr. Speaker, I am proud to be an original cosponsor of H.J. Res. 36 and ask that my colleagues join me in supporting this important resolution. I believe strongly in this amendment.

Mr. COLLINS. Mr. Speaker, I rise today to offer my strong support for House Joint Resolution 36, which I have cosponsored, and thank my colleague, Mr. Cunningham, for his continued effort to protect this important symbol of our freedoms, the United States flag.

The vast majority of my constituents in Georgia’s Third District have contacted me and stated that they share this belief that among the countless ways to show dissent, the desecration of the flag should not be one of them.

Opponents of this amendment state that it would reduce our First Amendment freedoms. This is simply not so. Rather this amendment would serve to restore the protection our flag had been accorded over most of our nation’s history.

The American flag represents not only our freedom but serves as a constant reminder of the ideals embodied in our Declaration of Independence that countless Americans have served to defend, preserve and protect over our nation’s 225 year history.

In the Declaration of Independence, the founders acknowledged that we are created equal and that we have been endowed by our Creator with certain rights to life, liberty and the pursuit of happiness.

These are the ideals for which countless Americans have fought, bled and died and it is these ideals upon which our Constitution is founded. It is these ideals which we are elected to preserve. Today, we can renew our affirmation of these principles, so clearly stated in the Declaration of Independence, by preserving the most visible symbol of our Republic.

Upon three separate occasions, this House has rightfully voted to protect our nation’s flag. Today, the United States House of Representatives will again affirm its commitment to protect this symbol of our great nation.

For the thousands of Americans who have fought and died for their country, the flag is more than a piece of cloth.

Mr. STARK. Mr. Speaker, I rise today in strong opposition to H.J. Res. 36 “The Flag Protection Constitutional Amendment.” This constitutional amendment would undermine the very principles for which the flag stands—freedom and democracy.

The First Amendment to the Constitution reads as follows: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.”

By writing the First Amendment, our nation’s founders made sure that the Constitution protected the right of all citizens to object to the workings of their government. Freedom of expression is what makes the United States of America so strong and great—it is the bedrock of our nation and has made our democracy a model for the rest of the world.

The Supreme Court has twice upheld a citizen’s right to burn the flag as symbolic speech protected by the Constitution. If this Flag Protection Amendment were enacted, it would be the first time in our history that the Bill of Rights was amended to limit America’s freedom of expression.

While the idea of someone burning or destroying an American flag is upsetting, the consequences of taking away that right are far more grave. Once we start limiting our citizens’ freedom of expression, we walk down a dangerous road inconsistent with the history and our founding principles. Our government’s tolerance of criticism is one of our nation’s greatest strengths.

This amendment isn’t a matter of patriotism, it is a matter of protecting the rights of all our citizens, right to dissent. Let us uphold our commitment to freedom and democracy. Let us uphold our commitment to the principles upon which our nation has flourished for over 200 years. Vote no on this amendment.

Mr. GRAVES. Mr. Speaker, it is an honor to rise today to support House Joint Resolution 36. The flag protection Constitutional amendment, I also want to extend my appreciation to our veterans and the men and women in our armed forces for their service to our nation and their vigilance and sacrifice in both times of peace and war.

The American flag embodies many different things to different people. To me, the flag represents the men and women in our Nation’s history who have selflessly served and died defending our country and its freedoms. Mr. Speaker, it is our obligation as Americans to defend this nation, its heritage, and its honor. Our flag embodies the struggles, the victories, and the bonds that unite our Nation and its people. I continue to support a Constitutional amendment that will honor those men and women who have died in service to our country by prohibiting the physical desecration of our national colors.

Today, we have an opportunity to renew our allegiance to our flag. Together, we stand collectively to honor its glory and its vibrant colors that continue to wave through the skies that blanket the dreams and hopes of our beloved America. America truly is the land of the free and the home of the brave, and I am honored that we can share and enjoy the peace and the prosperity of this great nation.

Mr. Speaker, I ask my colleagues to join me in supporting House Joint Resolution 36.

Mrs. ROUKEMA. Mr. Speaker, I rise in strong support of the Flag Protection Amendment.

Why are we here today. The Congress of the United States has already acted to pass flag protection legislation. However, a majority of the Supreme Court—the narrowest of margins—has ruled that Congress does not possess the authority to legislate in this important area. It has twice overturned laws that prohibit flag burning. In both cases, the decision has been handed down by a narrow margin of 5 to 4.

While the idea of someone burning or destroying an American flag is upsetting, the consequences of taking away that right are far more grave. Once we start limiting our citizens’ freedom of expression, we walk down a dangerous road inconsistent with the history and our founding principles. Our government’s tolerance of criticism is one of our nation’s greatest strengths.

This amendment isn’t a matter of patriotism, it is a matter of protecting the rights of all our citizens, right to dissent. Let us uphold our commitment to freedom and democracy. Let us uphold our commitment to the principles upon which our nation has flourished for over 200 years. Vote no on this amendment.

Mr. KIND. Mr. Speaker, again we are brought together to debate the rights of a free people against the honor and meaning of our flag—to debate the necessity of providing legal protection to the most honored and recognized symbol of freedom in the world. This is not a matter to be approached carelessly, and I appreciate this opportunity to reaffirm my faith in the Constitution and the Wisdom of our Nation’s founders.

If there is one bright shining star in our Constitutional constellation, it is the First Amendment of the Bill of Rights. That is the amendment that embodies the very essence upon which our democracy was founded because it protects the proposition that anyone in this country can stand up and criticize this government and its policies without fear of prosecution. But here we are yet again in the 107th Congress debating an amendment that would seriously weaken the First Amendment and Freedom of expression in this country.

There are few things that evoke more emotion, passion, pride or patriotism than the American flag; I recognize that. But I am forced to question the need for a Constitutional amendment to remedy a problem that doesn’t seem to exist, or provide legal protection to something that doesn’t seem endangered. As a matter of occurrence, the recorded incidence of public flag desecration is extremely rare. While this explanation, on its
face, is not sufficient to oppose to this amendment, it illustrates an inherent respect for the flag and a recognition of what it means to American history and the individuals who gave their life in protection of the freedoms and way of life we cherish everyday. To attempt to enforce this understanding through legal means serves no purpose. This self-regulation and self-coercion only encourage the proliferation of such acts because of the attention some people crave.

Now I want to be clear. I am going to oppose this amendment, not because I condone or I do feel repulsed by the senseless act of disrespect that is shown from time to time against one of the most cherished symbols of our country, the American flag. But because I recognize that our constitution can be a pesky document sometimes. It challenges us, and it reminds us that this democracy of ours requires a lot of hard work. It was never meant to be easy. Our democracy, rather, is all about advanced citizenship. It is about the rights and liberties embodied in the Constitution that will put up a fight against what we believe and value most in our lives. We have to recognize that America is exactly that, free speech. It is the right of anyone in this nation to peaceably express his or her beliefs about the government directly to the government without fear of tyrannical retaliation. As stated by Vietnam veteran and former prisoner of war James惠, we must protect this. By rejecting this amendment would... tell the world that freedom of expression means freedom, even for those expressions we find repugnant.”

This protection of freedom is what advanced citizenship is about. This is the challenge of the Congress. The Constitution, the Supreme Court has ruled on numerous occasions that the repulsive disrespect and the idiotic act of desecrating the American flag is freedom of expression protected under the First Amendment. As former Supreme Court Justice Jack- son said in the Barnette decision, and I quote: “Freedom of speech cannot be limited to those things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the very heart of the existing order.”

On this matter, I also agree with the statements of former General and current Secretary of State Colin Powell, who stated, “the First Amendment exists to ensure that freedom of speech and expression applies not just to that with which we agree or disagree, but also that which we find outrageous. I would not amend that great shield of democracy to hamper a few miscreants. This flag will be flying proudly long after they have slunk away.”

In no speech, in no amendment do I urge my colleagues to hear, former Senator, and American hero, John Glenn stated in his opposition to this amendment before the Senate Judiciary Committee in the 106th Congress, “That commitment to freedom is encapsulated and encoded in our Bill of Rights, perhaps the most revered and imitated document anywhere in this world. The Bill of Rights is what makes our country unique. It is what has made us a shining beacon of hope, liberty, of inspiration to oppressed peoples around the world for over 200 years.”

We must cherish the history and meaning of bill of rights and realize the impact of our actions today here. Are a few acts of senseless desecration the motivation for passing this amendment to the Constitution? There are other ways of dealing with content neutral acts. If someone steals my flag, they can be prosecuted for theft and trespassing. If they steal my flag and burn it, they can be prosecuted for theft, trespass, and criminal dam- age to property. If they burn it at a crowded subway station, they can also be prosecuted for inciting a riot, reckless endangerment, criminal damage to property and theft. There are other ways that this type of conduct can be prosecuted, but if someone buys a flag, desecrates it, and we decide not to amend the document and, because they do not like the government, decides to desecrate it or burn it, are we going to obtain search warrants and arrest warrants to go in and arrest that person and prosecute them? We do not need to do that.

Make no doubt about it, this amendment will do nothing less than amend the First Amendment of the Bill of rights for the first time in our Nation’s history. And it sets a precedent that the fundamental protections afforded to the American people, the freedoms that portray what America is, do not really protect all that is claimed. It is for these reasons that I encour-age my colleagues to oppose this amend- ment and not change 212 years of history in this country.

Mr. HAYES. Mr. Speaker, America is the land of liberty, home of the brave. The liberty we enjoy did not come without a price. Many Americans have made the ultimate sacri-fice so that we may live in peace and free-dom. They died nobly for us. Now it is our responsibility as Americans to live nobly in their memory.

One of the first and foremost ways we can honor our fallen heroes is to protect the American flag. The brave men and women who died for the fight of freedom deserve to be honored by the flying of the stars and stripes. Our flag represents the freedom we enjoy, the spirit of democracy, and the sacrifices of all those who have worked to make this nation what it is today. I am honored to support this measure that protects the great symbol of the United States of America.

Our nation’s active duty and reserve forces draw their strength not from America’s great material wealth. Rather, these individuals draw their strength from the belief that there are some causes that are worth dying for, a conviction rooted in principle and represented by our flag. The patriots that have fought for our freedoms knew in their hearts that their cause was righteous, that making the ultimate sacrifice for freedom, liberty, and justice was worth the risk.

Thus, as we a Congress have the oppor-tunity to do what is right. We have a responsi-bility to honor the memory of those who have died for our freedom and to say to those who live, “we will not let your sacrifice be in vain.” The American flag and the principles for which it flies are deserving of honor and protection. Today we need to pass this legislation and send a clear message that we will not tolerate desecration of the American flag.

Mr. OXLEY. Mr. Speaker, I stand in strong support of H. J. Res. 36, which calls for a constit-utional amendment to allow Congress to heed the overwhelming majority of our con-stituents and end flag desecration.

Old Glory is not just another piece of cloth—nor is it a political tool for one side or another to use in debate. Our flag is the most visible symbol of the nation, a unifying force in times of peace and war. Americans from both sides of the political spectrum back the action we are taking today in sending this issue to the states. Since the Supreme Court invalidated state flag protection laws in 1989, 49 state legislatures have passed resolutions peti-tioning Congress to propose this amendment.

Mr. Speaker, my hometown of Findlay, Ohio, is known as Flag City USA. Main Street and other major downtown thoroughfares are lined with flags in a patriotic salute to our great nation. Arlington, Ohio, which I am also privileged to represent, enjoys the designation Flag Village USA. The messages I receive from Findlay, Arlington and the Fourth Ohio District are clear: the American people favor the protection of Old Glory by staggering margins.

I am proud to be an original cosponsor of Duke Cunningham’s joint resolution, and rec-ognize him for his longstanding, unwavering leadership on this issue. I urge my colleagues to support their constituents and vote in favor of sending this amendment to the states.

Mr. UDALL of Colorado. Mr. Speaker, I cannot support this resolution.

I am not in support of burning the flag. But I am even more opposed to weakening the first amendment, one of the most important things for which the flag itself stands.

As the Denver Post put it just last month, “The American flag represents freedom. Many men and women fought and died for this country and its constitutional freedoms to keep our flag. They didn’t give their lives for the flag; they died for this country and the freedom it guarantees under the Bill of Rights. Those who choose to desecrate the flag can’t take away its meaning. In fact, it is our constitutional freedoms that allow them their reprehensible activity.”

I completely agree. So, like Secretary of State Colin Powell, former Senator John Glenn, and others who have testified against it, I will oppose this resolution.

For the benefit of our colleagues, I am at- taching the Denver Post’s editorial on this sub-ject:

FLAG AMENDMENT SHOULD DIE

Monday, June 25, 2001.—Although a pro-posed constitutional amendment to ban dese-cration of the American flag continues to lose steam, it nonetheless is once again being considered in the U.S. House.

The amendment, one of the most conten-tious free speech issues before Congress, would allow penalties to be imposed on indi-viduals or groups who burn or otherwise desecrate the flag.

In past years, the amendment has suc-ceeded in passing the House only to be killed, righteously, on the Senate floor.

The American flag represents freedom. Many men and women fought and died for this country and its constitutional freedoms under the flag. They didn’t give their lives for the flag; they died for this country and the freedom it guarantees under the Bill of Rights. Those who choose to desecrate the flag can’t take away its meaning. In fact, it is our constitutional freedoms that allow them their reprehensible activity.

American war heroes like Secretary of State Colin Powell and former Sen. John Glenn strongly oppose this amendment.
Glenn has warned that “it would be a hollow victory indeed if we preserved the symbol of freedoms by chopping away at those fundamental freedoms themselves.”

In a recent decision, the Supreme Court has ruled that desecration of the flag should be protected as free speech.

Actual desecration of the flag is, in fact, a rare occurrence and hardly a threat. There have been only a handful of flag-burnings in the last decade. It’s not a national problem. What separates our country from autocratic regimes is the guarantee of free speech and expression. It would lessen the meaning of those protections to enjoin Congress in this way.

The amendment is scheduled to go before the House this week, although if it passes it would still have to face a much tougher audience in the Senate. The good news is that House support of the amendment has been shrinking in recent years. It is possible that if that trend continues, the amendment could not only die this year but fail to return in subsequent years. We urge House lawmakers to let this issue go.

Mr. CRENSHAW. Mr. Speaker, I rise today in support of this amendment to empower Congress to enact legislation to protect Old Glory from desecration.

This is not an issue about what people can say about the flag, about the United States or its leader. Those rights are fully protected. The issue here is that the flag, as a symbol of our Nation, is so revered that Congress has a right and an obligation, to prohibit its wilful and purposeful desecration. It is the conduct that is the focus.

I have seen our flag on a distant battlefield. I understand what it represents. . . . the physical embodiment of everything that is great and good about our Nation. It represents the freedom of our people, the courage of those who hoisted it, and the resolve of our people to protect our freedoms from all enemies, foreign and domestic.

It is no coincidence that when foreigners wish to criticize America, they burn the American flag. I am sure we all remember the searing images of the flag of our Embassy in Iran which was torn from its pole and burned on the street. They burned the flag because it is not just some piece of cotton or nylon with pretty colors. Old Glory is the embodiment of all that is great about our country, the freedoms of the Constitution, the pride of her citizens, and the honor of her soldiers, not all of whom made it home.

Across the river from here is a memorial to the valiant efforts of our soldiers to raise the flag at Iwo Jima. It was not just a piece of cloth that rose on that day over 50 years ago. It was the physical embodiment of all we, as Americans, treasure . . . the triumph of liberty over totalitarianism; the duty to pass the torch of liberty to our children undimmed.

The flag is a symbol worth defending. I urge the adoption of the flag protection amendment.

Mr. CRENSHAW. Mr. speaker, I rise today in support of H.J. Res. 36, which would give the Congress the power to prevent the desecration of our Nation’s flag.

The flag is a national treasure and our Nation’s ultimate symbol of freedom. The American flag represents all that unites us as one nation under God. It is a constant reminder of the ideals we share—patriotism, loyalty, love of country. Because of its significance, we should seek to provide the flag some measure of protection.

The measure we are considering today includes a simple phrase: “Congress shall have the power to prohibit the physical desecration of the flag of the United States.” This clear and concise statement will return to the American people a right and responsibility which the Supreme Court took away a little more than a decade ago. It will empower Congress to restore legal protection for the flag that existed under the laws of 48 States prior to the Court’s ruling.

Millions of Americans have fought and died in defense of the United States and the flag which represents our Nation. Allowing persons the legal protection to desecrate the flag disrespects the valiant efforts of our soldiers to raise the flag and defend our way of life. Many of the nearly 150,000 veterans which live in the five counties which make up my district have expressed their strong support for this measure.

I support this resolution for many reasons, including the fact that I want to make sure that we honor the sacrifice of veterans. I want our young people to know that with liberty comes civic responsibility. I want to restore a sense of pride in our Nation and its rich history. I urge my colleagues to join me in supporting this resolution.

Mr. DINGELL. Mr. Speaker, I rise today to express my outrage at a deplorable and despicable act which disgraces the honor of our country—the burning of the U.S. flag. Behind the Speaker hangs our flag. It is the most beautiful flag in the world, white, red, and blue, carrying on its face the great heraldic story of 50 States descended from the original 13 colonies. I love it. I revere it. And I have proudly served it in war and peace.

However, today I rise in opposition to H.J. Res. 36, the flag amendment which for the first time in over 200 years would amend our Bill of Rights.

Mr. Speaker, throughout our history, millions of Americans have served under this flag during wartime; some have sacrificed their lives for what this flag stands for: our unity, our freedom, our tradition, and the glory of our country. I have proudly served under our glorious flag in the Army of the United States during wartime, as a private citizen, and as an elected public official. And like many of my colleagues, I love our flag and fully share the deep emotions it invokes.

But while our flag may symbolize all that is great about our country, I swore an oath to uphold the great document which defines our country, the Constitution of the United States. The Constitution is not as visible as is our wonderful flag, and oftentimes we forget the glory and majesty of this magnificent document—our most fundamental law and rule of order. This document defines our rights, liberties and the structure of our government. As written in a few short weeks and months in 1787, it created the perfect framework for government and unity, and defined the rights of the people in this great republic.

The principles spelled out in this document define how an American is different from a citizen of any other nation in this world. And it is because of my firm belief in these principles, in the same principles I swore an oath to uphold—that I must oppose this amendment. If this amendment is adopted, it will be the first time in the entire history of the United States that we have cut back on our liberties as Americans as defined under the 13th Amendment to the Bill of Rights.

Prior to the time the Supreme Court spoke on this matter, and defined acts of physical desecration to the flag under certain conditions as acts of free speech protected by the Constitution, I would have happily supported legislation which would protect the flag. While I have reservations about the propriety of these decisions, the Supreme Court is, under our great Constitution, empowered to define Constitutional rights and assure the protection of the rights of free citizens in the United States.

Today, we are forced to make a difficult decision. There is regrettable enormous political pressure for us to constrain rights set forth in the Constitution to protect the symbol of this country to the extent that it is one’s flag—this vote is not about the American flag, it is, rather, about the American people and the American civilization we have. It is the conduct that is the focus.

I urge my colleagues to honor our flag by opposing the flag amendment. We must fight for freedom. Freedom is America’s greatest and most recognized attribute. It is symbolized by our flag and evident in the way our flag is treated and handled. If we afford our flag our deepest respect, we are cherishing our freedom and praising our nation. When we fail to recognize the significance of our flag, we will fail to recognize the significance not only of our freedom, but also of the potential for freedom around the world.

Freedom is America’s greatest and most recognized attribute. It is symbolized by our flag and evident in the way our flag is treated and handled. If we afford our flag our deepest respect, we are cherishing our freedom and praising our nation. When we fail to recognize the significance of our flag, we will fail to recognize the significance not only of our freedom, but also of the potential for freedom around the world.

Let us recognize the thoughtful objections of our opponents and their concern for such an amendment offending the first amendment freedoms. We note that protecting the flag—the symbol of our country—truly protects and respects all our freedoms.

We can not take our freedom for granted. We must teach our children and our future leaders the importance of our freedom and the American flag. Millions of soldiers have fought for both our country and flag for all that it symbolizes. Many of them have died and many more have been injured. We can not forget that their courage and sacrifice was not only to guarantee their freedom, but also to guarantee our freedom. Furthermore, they did not fight so that we could allow the flag to lose its symbolic importance, and protect the rights of others to disrespect it. They fought to strengthen the value that America holds and that the flag represents.

Some nations have a unifying symbol that originates from their royalty such as a crown or scepter. Other nations have a unifying symbol such as a crest, cross or other religious symbol. The United States’ unifying symbol is her flag, and that originates from nowhere but our unending desire to uphold our freedom.
H4062

CONGRESSIONAL RECORD—HOUSE

July 17, 2001

and to spread freedom to all peoples in all

countries. From Fort McHenry to Iwo Jima, from

Hawaii to Maine, from the Earth to the Moon

and beyond the bounds of our solar system,

this flag has always stood and continues to

stand as our strongest unifying symbol—a

symbol of history’s greatest and freest nation.

It is a symbol of our commitment to the Amer-
ican flag to be reflected in our laws. By doing

so, we are formally addressing the signifi-
cance of the flag and the significance of deni-
grating our flag. Even more importantly, we

are formally addressing the significance of freedom.

Mr. FRELINGHUYSEN. Mr. Speaker, I rise
today in support of our American flag, and as

a proud original cosponsor of House Joint

Resolution 36 to prohibit the physical deseca-

tion of our most cherished national symbol.

The American flag is probably the most rec-

ognizable symbol in the world. Wherever it

cr|es, it represents freedom. Millions of Ameri-
cans who served our nation in war have car-
ried our flag into battle. They have been killed

or injured just for wearing it on their uniform,
because the American flag represents freedom and lib-

erity, the most feared powers known to tyr-

anny. Where there is liberty, there is hope. And

hope extinguishes the darkness of hatred,

fear and oppression.

America is not a perfect nation. But to the

world, this American flag represents that which is right

in our nation. To Americans, it represents what

Chief Justice Charles Evans Hughes referred to

as our “National unity, our national endeav-
or, our national aspiration.” It is a remem-

brance of past struggles in which we have

persevered on our own as one nation under

God, indivisible, with liberty and justice for all.

Those who would desecrate our flag and all it

c
t represents show no respect for the brave men

and women for whom the ideals and honor of

this nation were dearer than life.

Mr. Speaker, this bill will not make individ-

uals who desecrate our flag love our nation or

those who sacrificed to secure the freedoms

we have today. But, by protecting our flag, we

will give Americans a unified voice for decry-

ing these reprehensible acts.

I urge my colleagues to support this amend-

ment.

Mr. FORBES. Mr. Speaker, I rise in strong

support of Housing Joint Resolution 36, which

would allow Congress to take action to protect

the American flag from desecration.

In fact, one of my very first acts upon being

sworn in just last month was to cosponsor this

important resolution. Some very respected

people have called just the flag a mere piece of

cloth. But, I have spoken to many of the men

and women who fought and had comrades die for

the flag. I am aware that it symbolizes

To those patriots, it is much more than just another piece of cloth.

A quick review of America's history of juris-

prudence indicates that our nation has a long

tradition of protecting the flag. It was not until

recently, in 1989, that a closely divided Su-

preme Court interpreted our Constitution to

allow for the physical desecration of the flag.

Congress has tried to restore the interpretation

that gave some protection to the flag. But it is

only through a Constitutional amendment that

we will be able to do so without fear that the

court will not uphold our work.

It is important to note, Mr. Chairman, that

this is simply a first step on a long road that we
take today to protect the flag. Even once

the Congress passes this resolution and it is

ratified by the states, this language only gives

Congress the authority to pass a law to pro-
tect the flag. That will be the appropriate time
to debate the specifics of how we will protect

the flag. Items such as what constitutes dese-
cration and how do we prosecute the offend-

ers will be better discussed then. Today, we

merely seek to give Congress the authority to

have that debate.

So, I urge my colleagues to stand with the

men and women who have patriotically served

our country under the American flag and to

sustain the amendment. Just as one cannot yell

‘fire’ in a crowded theater, and claim immunity under

the First Amendment’s freedom of speech;
one must never be able to desecrate our flag

and claim immunity under the First Amend-

ment!

Mr. Speaker, during World War II, when

those courageous Marines placed our flag atop a mak
defile where a pole aloft Mr. Suriani, who

flew it at the cost of the lives of 6,000 lives of

our brave Marines, President Roosevelt, in

s1aluting their courage, stated, “when uncom-

mon valor was a common virtue.” I urge that

all those who believe that the American Flag

can be desecrated in the name of the First

Amendment to walk through the hallowed

grounds in Arlington, Virginia, where the Iwo

Jima Memorial is situated honoring those

brave Marines on that day. To see our flag fly-

ing in the breeze makes us all proud to be

Americans.

Mr. Speaker, I urge my colleagues to fully

support H.J. Res. 36, protecting the honor and

integrity of our flag.

Mr. NETHERCUTT. Mr. Speaker, I rise to

express my support for this proposed Con-

stitutional Amendment.

Our founding fathers’ war-time soliloquies
championed freedom in opposition to tyranny

and oppression. However, in deciding to revolt

and in establishing a government based on

liberal beliefs, the founding fathers were aware

of the dangerous tendencies of excessive lib-

erty. In a number of cases, the freedoms have

been misused. On nu-


merous occasions the Supreme Court has

maintained that certain forms of speech are

not protected—that freedom and liberty are

not license.

Those who desecrate the flag often claim

they do so for at least one of two reasons.

First, they are advocating the destruction of

government. This argument makes it very
easy to support the proposed amendment, and

the Supreme Court has held that this is not

protected speech.

Second, perpetrators of this act claim to be

supporting ideals of America’s past that have

disappeared. This claim is also an invalid jus-
tification. The flag not only represents the cur-
rent state of America, but it also represents
the past. It is America in its totality. It is a

symbol of the collective expression of all of

our policies, the wars we have fought and the

justification for so many honorable deaths.

These deaths were in defense of many ideals, one

of which is not unrestricted freedom of speech.

What the flag stands for cannot be divided in

parts at one’s convenience and used to pro-
test something pertaining to one or even sev-

eral areas of our society. It is an expression

of the whole. When a flag is destroyed, the

perpetrator destroys all the ideals the flag rep-

resents.

If Congress has the power to set a new prece-

dent, there is substantial public support for

this initiative. The Greek philosopher Plato

wrote in his famous work Republic, “Extreme

freedom can’t be expected to lead to anything

but a change to extreme slavery, whether for

a private individual or for a city.” I believe that
respect for our national symbol is a minimal

restriction on excessive political and artistic

expression in our nation. I urge my colleagues to

support this Constitutional Amendment.

Mr. PUTNAM. Mr. Speaker, I rise today to

request the support of the body for the past

name of H.J. Res. 36—the Flag Protection

Amendment. This legislation will clarify once

and for all that the language of Title 4 United

States Code, section 8, “No disrespect should
be shown to the flag of the United States of America; the flag should not be dipped to any person or thing” is the law of the land, as well as the sentiment of most Americans.

Some opponents of this legislation say that we cannot infringe on the First Amendment and the right to free speech. Others argue that the wording of the First Amendment is sacred, and the right to free speech. Others argue that we need to respect our flag.

Mr. Speaker, I am deeply offended when people burn or otherwise abuse this precious national symbol. When I was in school, not only did we pledge allegiance to the flag every morning, but we were also honored to be selected to raise or lower the flag in front of my school. Each time I took on this task with the utmost seriousness and respect.

I believe that we should still be teaching young people to respect the flag and what it represents.

Our Constitution is the document that provides the basis for our national country. For three centuries and a decade, the Constitution—the greatest invention of humans—has allowed our diverse people to live together, to balance our various interests, and to thrive.

It has provided each citizen with broad, basic rights. It doesn’t fly majestically in front of government buildings. We do not pledge allegiance to it each day. Yet, it is the source of our freedom.

It tells us that we are free to assemble peacefully. We are free to petition our government. We do this without interference; free from unlawful search and seizure; and free to choose our leaders. It ensures the right and means of voting.

It is these freedoms that define what it is to be an American.

In its more than 200 years, the Constitution has been amended only 27 times. With the exception of the Eighteenth Amendment, which was later repealed, these amendments have reaffirmed and expanded individual freedoms and the specific mechanisms that allow our self-government.

This Resolution before us today would not perfect the operation of our self-government. It would not expand our citizen rights.

Proponents of this constitutional amendment argue that we need to respect our flag. I believe that the vast majority of Americans already respect our flag.

The issue before us is whether our Constitution should be amended so that the Federal Government can prosecute the handful of Americans who show contempt for the flag.

To quote James Madison, is this a “great and extraordinary occasion” justifying the use of a constitutional amendment?

The answer is no; this is not such an occasion.

I oppose this amendment because I believe that while attempting to preserve the symbol of the freedoms we enjoy in this country, it actually would harm the substance of these freedoms.

Mr. LEVIN. Mr. Speaker, I do not approve of people burning the U.S. flag. The flag serves as a symbol of government, denoting truth, freedom and democracy. But as offensive as flag desecration is, I do not believe we can protect the flag by weakening the constitution.

One of this country’s most cherished principles is that of free speech as found in the First Amendment. As Justice Oliver Wendell Holmes once wrote, “The Constitution protects not only freedom for the thought and expression we agree with, but freedom for the thought we hate, the conduct and action we seriously dislike.

Should this amendment be approved, it could open a Pandora’s box prohibiting other activities. Who is to say restrictions won’t be placed on desecrating religious symbols or texts, or even the Constitution and Declaration of Independence? The possibilities are limitless and all would stand in opposition to what the founding fathers intended by giving citizens the right of freedom of speech.

Mr. Speaker, I would never condone burning the American flag. But carving out exceptions to the First Amendment on a slippery slope we should not venture down.

The SPEAKER pro tempore. Mr. QUINN. All time for general debate has expired.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WATT OF NORTH CAROLINA

Mr. WATT of North Carolina. Mr. Speaker, I offer an amendment in the nature of a substitute.

The SPEAKER pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Article—

“Not inconsistent with the first article of amendment to this Constitution, the Congress shall have power to prohibit the physical desecration of the flag of the United States.

The SPEAKER pro tempore. Pursuant to House Resolution 189, the gentleman from North Carolina (Mr. WATT) and a Member opposed each will control 30 minutes.

Is the gentleman from Wisconsin (Mr. SENSENBERG) opposed to the amendment in the nature of a substitute?

Mr. SENSENBERG. Mr. Speaker, I rise in opposition to the amendment in the nature of a substitute.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. SENSENBERG) will be recognized in opposition.

The Chair recognizes the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GREEN), outside of the debate on this amendment, to speak on general debate.

Mr. GREEN of Texas. Mr. Speaker, I thank my colleague and classmate, the gentleman from North Carolina, for yielding time to me.

Like our system goes here in Congress, I have a markup going on in the Committee on Energy and Commerce on the energy bill, and have been running back and forth. I appreciate the courtesy of the gentleman, my colleague, in yielding time to me.

Mr. Speaker, I rise today in support of the resolution and as a proud co-sponsor of the original resolution to
Mr. Speaker, I rise in opposition to the amendment in the nature of a substitute by the gentleman from North Carolina (Mr. WATT). And so that the membership is clear what the gentleman from North Carolina (Mr. WATT) is trying to do, I would like to summarize the constitutional amendment: “Not inconsistent with the first article of amendment to this constitution, the Congress shall have the power to prohibit the physical desecration of the flag of the United States.”

Now, the only difference between the substitute of the gentleman from North Carolina and House Joint Resolution 36 is the phrase “not inconsistent with the first article of amendment to this constitution.” What the substitute does is to punt this issue right back to the Supreme Court of the United States, because the Court twice, in a 5 to 4 decision in the Johnson and Eichman cases, allowed flag desecration based on first amendment grounds.

This is kind of a not-so-subtle way of saying that the Supreme Court was right, because if we send this whole issue back to the Supreme Court, they will use the precedent that they established in 1989 and 1990 as controlling and allow flag desecration to go on. But I think there is a greater issue involved than just the issue of whether or not the Constitution should be amended to prohibit flag desecration, and that is whether or not this House of Representatives should go along with unraveling the elaborate system of checks and balances put into our Constitution by the framers in order to prevent one branch of government from becoming too powerful.

As I said during the general debate, Mr. Speaker, the amendment procedure for the Constitution of the United States was, in part, designed to prevent the courts from becoming too powerful. Three of the 17 amendments that were proposed following the Bill of Rights, and ratified by the States, overturned court decisions that were determined not to be good law by the Congress and by three-quarters of the State legislatures.

Now, if the gentleman from North Carolina and the supporters of his amendment were to toss this matter back to the courts, then just defeat the amendment that we are debating today. Because that will mean that the court decisions in Johnson and Eichman will be the controlling law until the Supreme Court changes its mind and either overrules or modifies its decisions.

I believe that the House of Representatives today should hit this issue head on. If my colleagues do not want a constitutional amendment to protect the flag from physical desecration, then let it die on the floor, but do not put this House on record saying that if we agree with the Supreme Court decision then we should
amend the Constitution in order to ratify that Supreme Court decision, because that is what the substitute offered by the gentleman from North Carolina does.

Vote down the Watt substitute, pass the original amendment that has been reported by the Committee on the Judiciary.

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

Mr. WATT of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Speaker, I rise in support of the Watt amendment, and I thank the gentleman for yielding me this time.

Once again it is around the 4th of July, and we are discussing the current version of what is often referred to as the “flag burning amendment.” The gentleman from North Carolina has offered a meaningful alternative that will continue to protect the rights of free speech under the first amendment and is consistent with the opinions of former Senator John Glenn and Secretary of State Colin Powell, both of whom have spoken out in support of protecting the right of free speech and against the underlying amendment in its present form.

The Supreme Court has considered the restrictions which are permissible by the First Amendment under the first amendment. For example, with respect to speech, time, place and manner may generally be regulated, while content cannot. So if a group or individual wishes to have a protest march, the government can restrict the particulars of the march: what time it is held, where it is held, how loud it can be. But it cannot restrict what people are marching about. We cannot allow some marchers and ban others just because we disagree with the message.

The only exception to the prohibition on regulation of content are situations, for example, where speech creates an imminent threat of violence. Burning a flag will not necessarily create an imminent threat of violence, particularly if someone is burning his own flag in his own back yard. Yet this is precisely the behavior prohibited by the underlying amendment.

We should all understand that flags are burned every day in this country. Indeed, flag burning is considered the proper way to dispose of worn flags. The only exception to the prohibition on regulation of content is situations, for example, where speech creates an imminent threat of violence. Burning a flag will not necessarily create an imminent threat of violence, particularly if someone is burning his own flag in his own back yard. Yet this is precisely the behavior prohibited by the underlying amendment.

So, if we say something nice while burning a flag, that is okay; but if something is said which offends the local sheriff as the flag is burned, then it would be illegal. This is nothing less than an attempt to suppress speech, and it would not be in the position of deciding which speech is good and which speech is bad. I believe the Watt amendment will help remedy this problem by requiring the criminalization of flag burning related to crimes to be consistent with the first amendment.

Now, there would still be other problems, like what is a flag? Is a picture of a flag, a flag? What is desecration and what does that mean? Who gets to decide when an expression constitutes desecration? And what other symbols, like Bibles or copies of the Constitution, should also be protected? Those problems still remain, but I ask my American colleagues in supporting this amendment.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in opposition to the substitute amendment of the gentleman from North Carolina (Mr. WATT).

The gentleman from Virginia (Mr. SCOTT) has, in essence, indicated that it is going to be difficult or perhaps impossible to differentiate between appropriate burning of the flag or proper disposal of an inappropriate or desecrating of the flag. This argument has been made other times. How do we differentiate between the two? This is done by tradition and by practice. For 100 years, our courts and government officials should not have gone to on Memorial Day, for example. Many of us go back into our districts and participate in those cere- monies. That is clearly different than a flag or sets it on fire, as has happened.

Again, some have argued this does not happen any more. It has happened 86 times in the recent past, in 29 States and in the District of Columbia and in Puerto Rico, for example. We are able to differentiate, just as we are able to differentiate, for example, a surgeon who has a scalpel on a person to assist them, to do something, to cure a disease or to cure some problem that person has from another person coming up with a knife and stabbing a person with it. It is easy to differentiate between appropriate disposal of the flag and not appropriate disposal.

The gentleman’s substitute amendment, again, says “not inconsistent with the first article of amendment of this constitution.” We already know what this Supreme Court, at least five of the justices of the Supreme Court, think about desecration of the flag. We know that they think that it amounts to expression and is protected by the first amendment in that 5 to 4 decision. And since this language would come first in the amendment, it would be controlling. So, in essence, if we would pass the substitute amendment of the gentleman from North Carolina as he proposes, it would appear that we are passing an amendment to protect the flag, to stop desecration of the flag in this country; but in essence, we would be passing absolutely nothing. It would be a sham. For this reason, I oppose the amendment.

Mr. WATT of North Carolina. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, I rise in opposition to this well-intentioned amendment. When I was first elected to the House, I cosponsored the flag burning amendment. I did so for many of the same reasons that proponents of the amendment have expressed today. It is disturbing to think of someone burning the flag of the United States. It is an action that holds in contempt the greatness of this Nation and all those who gave up their lives defending this symbol of freedom that our flag represents. It is an act for cowards.

And yet looking back, I was moved by my heart more than my head. History informs us that the strength of America is derived from its basic ideals, one of the most important of which is tolerance for the full expression of ideas, even the most obnoxious ones.

For more than 2 centuries, the first amendment to the Constitution has safeguarded the right of our people to write or publish almost anything without interference, to practice their religion freely and to protest against the Government in almost every way imaginable. It is a sign of our strength that, unlike so many repressive nations on our map, our flag is the symbol of freedom, the Government can restrict the par- ticipation in those ceremonies. It is a violation of someone burning the flag of the United States. It is an action that holds in contempt the greatness of this Nation and all those who gave up their lives defending this symbol of freedom that our flag represents. It is an act for cowards.

And yet looking back, I was moved by my heart more than my head. History informs us that the strength of America is derived from its basic ideals, one of the most important of which is tolerance for the full expression of ideas, even the most obnoxious ones.
Mr. Speaker, H. L. Mencken once said, "The trouble with fighting for human freedom is that one spends most of one's time defending scoundrels, for it is a fact scoundrels that oppressive laws are first aimed. And oppression must be stopped at the beginning if it is to be stopped at all." Flag burners are generally scoundrels. On that much we would agree. But we ought not give them any more attention than they deserve.

Mr. Speaker, former Senator Chuck Robb sacrificed his political career by doing such things as voting against this amendment in order to defend the very freedoms that the American flag represents.

In his Senate floor statement last year, he described how he had been prepared to give up his life in the Vietnam War in order to protect the very freedoms that this constitutional amendment would suppress. He did wind up giving up his political career by showing the courage to vote against this amendment.

Not having fought in a war, I should do no less than Senator Robb did in defense of the freedom he and so many of my peers were willing to defend with their lives.

This amendment should be defeated. I think the substitute amendment is appropriate. It should be supported. But this amendment should be defeated in our national interest, regardless of the consequences to our personal and political interests.

Mr. SENSENBRENNER: Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Speaker, I rise again against the substitute offered by the gentleman from North Carolina (Mr. WATT).

We have seen this debate before where our side has proposed the flag constitutional amendment and we have seen your side always provide a substitute. Generally, your substitute has been a method to give you the ability to vote for it and still go back to your constituents and say that you believe that the physical desecration of the flag of the United States is bad. That is not consistent with the first amendment article of amendment to this Constitution.

I am sure that my colleagues would be willing to explain why they would have that in if, in fact, they felt that the Congress should have the power to prohibit the physical desecration of the flag of the United States. But the fact of the matter is that in what a constitution would show that you do not really have your heart in this debate. This is really, in my opinion, just the opportunity for those who are in swing districts to have the opportunity to vote for something and vote against ours.

When we look at what we have offered in the original flag constitutional amendment, H.J.Res. 36, we are simply saying that our flag is just a piece of cloth, we are not saying that it is something much more. To desecrate it is to desecrate the memory of thousands of Americans who have sacrificed their lives to keep that banner flying intact. So it is to desecrate everything this country stands for.

I would remind the Members who do not support our original amendment and support the substitute that we also note in our laws we protect our money from desecration, destruction. So if that is true for our money, why is that not true for the flag?

Obviously there is a debate on this all the time and we cannot get complete support on this, but I think in this case that we can talk and talk about first amendment rights and everything but clearly that your amendment is just really subterfuge to try to protect Members who want to have it both ways.

Supreme Court Justice John Paul Stevens claims that the act of flag burning has nothing to do with disagreeable ideas, but rather involves conduct that diminishes the value of an important national asset. The act of flag burning is meant to provoke and arouse and not to reason. Flag burning is simply an act of cultural and patriotic destruction.

The American people revere the flag of the United States as a unique symbol of our Nation, representing our commonly held belief in liberty and justice. Regardless of our ethnic, racial or religious diversity, the flag represents oneeness as a people. The American flag has inspired men and women to accomplish courageous deeds that only in their independence, made our Nation great and, of course, advanced our values throughout the world which the rest of the country is adopting. Mr. Speaker, I say we should defeat this substitute.

Mr. WATT of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

First of all, let me address the comments made by my colleague, the gentleman from Florida (Mr. STEARNS), and am absolutely clear to him that for those of us who have different opinions about what the first amendment covers than yours, it does not mean that we do not have political heart. It just means we have a difference of opinion.

Those of us who have stood for the first amendment to the Constitution are people like myself who, in the practice of law, actively defended the right of the Ku Klux Klan to march.

Mr. Speaker, maybe my colleagues can say I do not have any heart. Maybe my colleagues can say I am looking for political cover. But when I go back into my community and stand up for the right of the KKK to march and express themselves, I think that gives some indication of what I feel about the first amendment and the right that all of us, I think, are fighting to protect, which is the right of people to express themselves, whatever we agree with what they are saying or disagree with what they are saying.

This is not about seeking political cover. This is about protecting the very Constitution that we are operating under and have been operating under for years and years.

Mr. Speaker, I want to make that clear to the gentleman. This is not, as the gentleman characterized it, a political exercise. And the gentleman should also be clear that this is not the Republican side versus our side, that is the Democratic side. The last time I checked, there were people of goodwill, both Republicans and Democrats, on both sides of the aisle on this issue.

The one thing that I think we all agree on is that we believe in this country and the principles on which it was founded, and we will all fight and defend those principles. I finally got to talk with that gentleman from California (Mr. Cummings) my good friend, who is in the Chamber. We got past that. Let us not call names.

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

Mr. WATT of North Carolina. I yield to the gentleman from Florida.

Mr. STEARNS. Mr. Speaker, could the gentleman give me an example where in his mind the authors of this substitute give a specific example where the first amendment would be in conflict with physical desecration of the flag?

Mr. WATT of North Carolina. Reclaiming my time, I have a very limited amount of time. Had the gentleman been on the floor at the outset of this debate, he would have heard what this amendment is all about. The only way I can do that now is to go back and restate it. It is in the record, though, I will just stand on the record. Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time to close.

Mr. WATT of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

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

Mr. WATT of North Carolina. I yield to the gentleman from Virginia.

Mr. SCOTT. Mr. Speaker, I ask the gentleman to yield so I can respond briefly to the gentleman from Florida (Mr. STEARNS) because I think it is important to know about the importance of the first amendment.

When we talk about some burning would be legal and some would not, if someone is being arrested because of the message, if someone is burning the flag and says something nice about the Vietnam War, would that be desecration? If someone says something in
protest of the Vietnam War, would that be desecration? It is the same act. If the local sheriff happens to be of a particular view on that, he would want to arrest the burner because he is offended.

Mr. Speaker, that is why it is important that we have the first clause in the Watt amendment. It would have to be consistent with the first amendment. The first amendment would say that one cannot restrict by virtue of the content. We can restrict the way the flag is burned, but not the message delivered when the burning is going on.

Mr. WATT of North Carolina. Mr. Speaker, I thank the gentleman for his intervention.

Mr. Speaker, in closing, first of all, I want to respond to the comments of the gentleman from Wisconsin (Mr. SENSENBRENNER) that he made in his opening statement, that the effect of this proposed substitute would be to punt this issue back to the United States Supreme Court.

It is interesting that the chairman of the Committee on the Judiciary would say that, because, by passing the underlying proposal, we do not do away with the amendment to the Constitution. The Supreme Court is going to have to reconcile this proposed constitutional amendment with the first amendment as it stands now; and so the notion that we are somehow, by not putting this language that we have proposed in the constitutional amendment, are going to save ourselves from the United States Supreme Court interpreting the first amendment is just not the case.

At some point this issue is going back to the Supreme Court, whether it goes back under my substitute or whether it goes back under the proposed constitutional amendment.

We can say to ourselves we have resolved this issue, but if in fact it is speech to burn a flag in the course of a demonstration or protest expressing one’s self, if it was protected by the first amendment before this proposed constitutional amendment, then that act is still going to be protected by the first amendment unless the effect of this is to repeal the first amendment.

So it is not as if we are doing away with the first amendment. In any event, this all must be resolved. I do not want to add any credibility to the notion that analysis. This issue is going back to the Supreme Court, and the Supreme Court will reconcile whatever amendment we make.

I am just trying to make it clear that in my order of priorities I want the first amendment to the Constitution, which has been on the books for all these years that our country has been around, to still be the preeminent amendment to the Constitution. I do not want something that this Congress has done in the heat of some political moment to supersede that.

Second, I want to close by just saying how much I have come to welcome this debate. When we first started doing this 5 or 6 years ago, I actually resented having to do this every year. Now I actually think that it is a good debate for our country.

Mr. Speaker, 5 or 6 years ago when I first started debating this, I used to think, as the gentleman from Florida (Mr. STEARNS) now thinks, that everybody on the opposite side of this issue was unAmerican because they did not believe in the first amendment.

Mr. Speaker, I used to think that we ought to come in the Chamber and they would shout at me that I was unAmerican because I did not support what they wanted; and I would shout at them that they were unAmerican because they did not believe in what I believed in.

I think about 2 or 3 years into the debate, it became apparent to me that everybody on all sides of this issue is a patriot. And I think we finally got to that resolution last year or the year before last when we had a very, very dignified debate that allowed everybody to express their opinions on this proposed constitutional amendment, on the proposed substitute, and everybody went away understanding more fully what free speech and expression is all about and why we value our country and why we do regardless of where we stand on this issue.

There is dignity in this debate. It is not a partisan debate. It is not a racial debate. It is not a philosophical debate. This is all about what you think this country stands for and what you think the first amendment stands for. I applaud my colleagues for engaging in this dignified debate.

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

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

Mr. Speaker, I am willing to stipulate that everybody who has debated this question today, on either side of the issue, is just as patriotic as everybody else. There is a legitimate difference of opinion on whether or not we should propose a constitutional amendment for the States to consider and ratify to protect the United States flag from physical desecration. I think that the case is overwhelming on why we ought to do that.

I would just like to cite one legal decision in the case of the State of Wisconsin v. Matthew C. Janssen, Supreme Court of Wisconsin, decided on June 25, 1998, where the State Supreme Court, citing the Johnson and Eichman cases as precedent, declared unconstitutional the Wisconsin flag desecration statute in the case where the defendant defaced on the American flag. And there the court determined that because the defendant claimed that this disgusting act was a political expression, he could not be criminally prosecuted because the statute was unconstitutional.

Now, if there ever was a reason why we should overturn the Johnson and Eichman cases, this decision of the Wisconsin Supreme Court, I believe, is a case in point. I think that whether one supports or opposes House Joint Resolution 36 goes down to a question of values. We have heard those values spoken today very eloquently on both sides. But I think that protecting the flag should be one of our paramount goals, because the flag does stand for all Americans. The flag does stand for the principles that are contained in the Declaration of Independence and the Constitution. The flag does stand for the values that 700,000 young men and young women died for in the wars that this country has fought over the last 225 years. If we can say that it is a Federal crime to burn a dollar bill, we ought to be able to say it is a Federal crime to burn the American flag.

I urge the defeat of the substitute and the passage of the constitutional amendment.

Mr. CONYERS. Mr. Speaker, I strongly support the substitute offered by Mr. WATT. This substitute goes to the heart of what we’re debating. If the sponsors of H.J. Res. 36 really believe that the proposed amendments do not supersede the First Amendment, they ought to have no problem supporting this substitute.

And if H.J. Res. 36 does supersede the First Amendment, then the sponsors should show the courage to admit it—the American people can make an informed decision about this issue.

In my view it is clear that H.J. Res. 36 directly alters the free speech protections of the First Amendment. There can be no doubt that “symbolic speech” relating to the flag falls squarely within the ambit of traditionally protected speech.

Our nation was born in the dramatic symbolic speech of the Boston Tea Party, and our courts have long recognized that expressive speech associated with the flag is protected under the First Amendment.

As of H.J. Res. 36 is currently drafted, it will allow Congress to outlaw activities that go well beyond free speech. The amendment gives no guidance as to what if any provisions of the First Amendment, the Bill of Rights, or the Constitution in general that it is designed to override.

Some have suggested that the amendment goes so far as to allow the criminalization of wearing clothing with the flag on it. This goes well beyond overturning the Johnson case and indicates that the flag desecration amendment could permit prosecution under statutes that were otherwise unconstitutionally void of vagueness.

For example, the Supreme Court in 1974 declared unconstitutionally vague a statute that criminalized treating the flag contemptuously and did not uphold the conviction of an individual wearing a flag patch on his pants. So unless we clarify H.J. Res. 36, the legislation could allow the prosecution despite that statute’s vagueness.

Finally, it is insufficient to respond to these concerns by asserting that the courts can easily work out the meaning of the terms in the same way that they have given meaning to other terms in the Bill of Rights such as “due process.”

Unlike the other provisions of the Bill of Rights, H.J. Res. 36 represents an open-
ended and unchartered invasion of our rights and liberties, rather than a back-up mechanism to prevent the government from usurping our rights.

I urge the Members to support the substitute and oppose altering the Bill of Rights.

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

The SPEAKER pro tempore (Mr. LINDER). Pursuant to House Resolution 189, the previous question is ordered on the joint resolution and on the amendment in the nature of a substitute offered by the gentleman from North Carolina (Mr. WATT).

The question is on the amendment in the nature of a substitute offered by the gentleman from North Carolina (Mr. WATT).

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 100, nays 324, not voting 9, as follows:

[Roll No. 211]
So (two-thirds having voted in favor thereof) the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. KOLBE, today I was absent during the vote, so I hereby submit my vote 'aye', for the provisions of H.R. 2500, the Foreign Operations, Export Financing, and Related Programs Appropriations Bill, 2002.

Chairman of the Committee of the Whole House resolved into the Committee of the Whole House with such amendments as may have been adopted. The previous question shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. COOKSEY). The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

The Committee on Rules may grant a motion, if necessary, for the purpose of convening a meeting of the Committee of the Whole House for the purpose of considering this resolution, all amendments thereto to final passage without intervening motion except one motion to reconsider the House resolution into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2500) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2002, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill as waived. All general debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee of Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. Points of order against provisions in the bill from the chair of the Committee on Appropriations are waived except as follows: following with 'Provided' on page 19, line 15, through 'workyear's' on line 19. Where points of order are waived against a part of a paragraph, points of order against a provision in another part of such paragraph may be made only against such provision and not against the entire paragraph. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the floor of the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit the bill with or without instructions.

The SPEAKER pro tempore (Mr. COOKSEY). The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my friend, the gentleman from Florida (Mr. HASTINGS); pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, H. Res. 192 is an open rule providing for consideration of H.R. 2500, the FY 2002 Commerce, Justice, State, the Judiciary, and related agencies appropriations bill. Overall, this bill provides roughly $300 billion in funding for a variety of Federal departments and agencies, about $600 million over the President’s budget request.

H. Res. 192 provides for 1 hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Appropriations, and all points of order are waived against consideration of the bill.

The rule also provides that the bill be considered for amendments by the chairman and ranking minority member of the Committee on Appropriations, and all points of order are waived against consideration of the bill.

The rule also provides that the bill be considered for amendments by the chairman and ranking minority member of the Committee on Appropriations, and all points of order are waived against consideration of the bill.

The Clerk read the resolution, as follows:

H. Res. 192
Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2500) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2002, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill as waived. All general debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee of Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. Points of order against provisions in the bill from the chair of the Committee on Appropriations are waived except as follows: following with ‘Provided’ on page 19, line 15, through ‘workyear’s’ on line 19. Where points of order are waived against a part of a paragraph, points of order against a provision in another part of such paragraph may be made only against such provision and not against the entire paragraph. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the floor of the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit the bill with or without instructions.

The SPEAKER pro tempore (Mr. COOKSEY). The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.
Finally, the rule provides for one motion to recommit with or without instructions, as is the right of the minority.

Once H. Res. 192 is approved, the House can begin its consideration of the fiscal year 2002 Commerce, Justice, State, the Judiciary appropriations bill. A number of critically important Federal agencies receive their funding from this measure, including the Federal Bureau of Investigation, the Immigration and Naturalization Service, the Drug Enforcement Administration, the Federal Communications Commission, the Securities and Exchange Commission, and the Small Business Administration, among others.

I want to commend my friend and colleague, the gentleman from Virginia (Mr. Wolf), for the manner in which he and his ranking minority member, the gentleman from New York (Mr. Serrano), for yielding me this time.

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

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

First, Mr. Speaker, let me thank the gentleman from Georgia (Mr. Lindber) for yielding me this time. This seems to be my and his day for rulemaking here in the House.

Mr. Speaker, I rise in support of the Commerce, Justice, State, Judiciary, and related agencies appropriations bill for fiscal year 2002 and in support of the rule. I want to congratulate the gentleman from Virginia (Mr. Wolf), the chairman of this subcommittee, and the ranking member, the gentleman from New York (Mr. Serrano), for their work on this bill and for their recognition of the importance to the entire country of the necessary departments and agencies it funds. In years past, this has been a very controversial bill. I am satisfied that this year we have a bill that is fair, balanced, and enjoys wide bipartisan support.

For a moment, let me just say how important to the American people this bill is. It funds programs like the Legal Services Corporation and the Immigration and Naturalization Service. It increases funding for the Equal Employment Opportunity Commission and the United States Commission on Civil Rights. Additionally, this bill funds the very critical programs that our embassies around the world carry out every day. They are working to help our men and women work hard for the American people every day and everywhere. From Baku to Buenos Aires, and from Quito to Cairo, our foreign service personnel have some of the most difficult jobs in the world. The increases in funding in this bill for embassy and consular security are most needed and should, in my opinion, be increased.

Mr. Speaker, in addition to the programs of national interest that I alluded to above, this bill contains a number of significant projects important to my south Florida district that I would like to highlight briefly. I am pleased this bill contains more than $1.4 million for the continued restoration of the south Florida ecosystem. Funding for these projects includes important work being done at the National Coral Reef Institute in Dania Beach, Florida; and I am thrilled that Congress continues its commitment to this facility through this bill.

Protection of Florida’s unique environment and the animals that inhabit it are aided by this bill. Specifically, this bill funds the Marine Mammal Commission for continuation of studies to further protect the endangered Florida manatee. Additionally, this bill continues funding for the Caribbean Initiative, which provides added resources to the FBI, DEA, and the INS for the region that includes Puerto Rico, the Caribbean, and south Florida.

I am pleased to see that the bill before us includes significant funding for the Community Oriented Policing Services, the COPS program, administered by the Department of Justice. Specifically, the committee report recommends that funds be directed to the largest school district in my State, Miami-Dade County Public Schools, for technology equipment for school policing activities.

Finally, Mr. Speaker, let me mention that later in this debate I will offer an amendment for funding to an important project in my district that is in desperate need, Pahokee, Florida. Looking ahead, I thank the ranking member for working with me on my amendmen and for the thoughtful consideration of it.

Mr. Speaker, this is a good bill; and the rule is fine, as far as it goes. Again, Mr. Speaker, I thank the gentleman from Virginia (Mr. Wolf) and the gentleman from New York (Mr. Serrano) for bringing an excellent bill to the House. This is a bipartisan bill that helps millions of Americans from coast to coast, and I urge passage of the bill and adoption of the rule.

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

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. Keller).

Mr. KELLER. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in support of the rule and wish to talk specifically about one of the most impressive components of this piece of legislation we are going to be voting on in terms of the Justice appropriations.

As a proud original cosponsor of the COPS program and the only member of the Subcommittee on Crime from Congress, I want to take this time to applaud the efforts of the chairman, the gentleman from Virginia (Mr. Wolf), in reinstating the funding for the COPS program at $31 billion, which is $158 million more than the President requested. This is a critically important program to our law enforcement community and to the safety of our citizens.

In my community of central Florida, for example, we have added more than 500 police officers since 1994. We have added 110,000 police officers across the country. Over two-thirds of our police departments have benefited from this program. What happened? We saw a dramatic downturn in crime. Every year since 1994, the crime rate has gone down.

Recently, I held a roundtable in my community and invited all of the sheriffs and all of the chiefs of police. Some were elected; some were appointed. Some were Republican; some were Democrat. Some headed up large police departments; some headed up small. They all had one common goal. Their number one criminal justice priority was to fully fund the COPS program because they saw it made a meaningful difference in the lives of citizens in Orlando.

I want to applaud the leaders in funding this program, and let them know this will continue to make a meaningful difference in people’s lives because of their leadership.

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

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

The previous question was ordered. The resolution was agreed to. A motion to reconsider was laid on the table.

RECESS

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

Accordingly (at 4 o’clock and 27 minutes p.m.), the House stood in recess subject to the call of the Chair.

☐ 1831

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. Wurtzfield) at 6 o’clock and 31 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 7, COMMUNITY SOLUTIONS ACT OF 2001

Mr. Dreier, from the Committee on Rules, submitted a privileged report
July 17, 2001

CONGRESSIONAL RECORD—HOUSE

H4071

(Rept. No. 107–144) on the resolution (H. Res. 196) providing for consideration of the bill (H.R. 7) to provide incentives for charitable contributions by individuals and businesses, to improve the effectiveness and efficiency of government program delivery to individuals and others, and to enhance the ability of low-income Americans to gain financial security by building assets, which was referred to the House Calendar and ordered to be printed.

GENERAL LEAVE

Mr. WOLF. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2500, and that I may include tabular and extraneous material.

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

There was no objection.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT. 2002

The SPEAKER pro tempore. Pursuant to House Resolution 192 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2500.

Mr. WOLF. Mr. Chairman, I yield myself such time as I may consume.

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

Under the rule, the gentleman from Virginia (Mr. WOLF) and the gentleman from New York (Mr. SERRANO) each will control 30 minutes.

The Chair recognizes the gentleman from Virginia (Mr. WOLF).

Mr. WOLF. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. YOUNG), the chairman of the full Committee on Appropriations.

Mr. YOUNG of Florida. Mr. Chairman, I want to announce to Members that as we begin consideration of this very important appropriations bill that because of the heavy schedule for the floor this week, we would like to accomplish an agreement on limiting time on amendments, as we have done on other bills. In order to be fair to the membership and to do this, we would like to urge Members who have an amendment that they would like to have considered to this bill, that they present that as soon as they possibly can so that as we begin to create the universe of amendments that we will be considering, so that we will not leave anybody out.

The schedule for the balance of the evening will be at a later time by the majority leader, but at this point we are prepared to go into the general debate on the bill.

I want to say a word of congratulations to the gentleman from Virginia (Chairman WOLF) for the outstanding leadership that he has shown in this, his first year as chairman of this particular subcommittee, and also to the gentleman from New York (Mr. SERRANO), who is the ranking member. There has been a very cooperative effort between the gentleman and the chairman. They both have done a good job. Their staffs have worked diligently to present a good, fair bill.

Will it satisfy everybody? I know there are a lot of folks that would like to see more appropriated by this bill; others think it appropriates too much. So it is probably just at about the right place.

So, again, I want to compliment the gentleman from Virginia (Chairman WOLF), who is doing an outstanding job in providing the leadership for the subcommittee, and his partner in this effort, the gentleman from New York (Mr. SERRANO), who also has been a very constructive member of the subcommittee in getting us to this point.

I am hopeful that we can expedite this bill. We have four other appropriations bills, plus the conference report on the supplemental, awaiting consideration by the House, so the sooner we can expedite this business, the sooner we can get on to the rest of the appropriations business.

Mr. WOLF. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to begin consideration of H.R. 2500, the Department of Commerce, Justice, State, the Judiciary, and related agencies for the fiscal year ending September 30, 2002, and for other purposes, with Mr. HASTINGS of Washington in the chair.

The Clerk read the title of the bill.

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

Under the rule, the gentleman from Virginia (Mr. WOLF) and the gentleman from New York (Mr. SERRANO) each will control 30 minutes.

The Chair recognizes the gentleman from Virginia (Mr. WOLF).

Mr. WOLF. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Chairman WOLF), who has done an outstanding job in providing the leadership for the subcommittee, and his partner in this effort, the gentleman from New York (Mr. SERRANO), who also has been a very constructive member of the subcommittee in getting us to this point.

I am hopeful that we can expedite this bill. We have four other appropriations bills, plus the conference report on the supplemental, awaiting consideration by the House, so the sooner we can expedite this business, the sooner we can get on to the rest of the appropriations business.

The bill before the Committee and in the House today reflects the delicate balance of needs and requirements. We have done our level best to be a responsible bill for fiscal year 2002 spending levels for the departments and agencies under the subcommittee's jurisdiction. We have had to carefully prioritize the funding in this bill and make hard judgments with regard to scarce resources.

Overall, the bill before the committee recommends a total of $38.5 billion in discretionary funding, of which $36.1 billion is general-purpose discretionary, and $440 million is for the discretionary conservation function. The bill is $972 million above the enacted level for fiscal year 2001, and $600 million above the President's request.

For the Department of Commerce, the bill provides $26.5 billion in discretionary funding, $672 million above last year's level and $628 million above the President's request. This includes a $455 million increase to address critical detention requirements to house criminals and illegal aliens.

It also includes $5 million in support of the President's faith-based initiative at the Federal Bureau of Prisons, including a pilot program at Petersburg, Virginia, and Leavenworth, Kansas, and an increase for Federal penitentiaries. I firmly believe that faith can have a positive impact on the lives of those incarcerated, and I know that we must provide prisoners with something more positive than just putting them in prison; and a faith-based initiative which will be open to all faiths I believe can make a big impact in reducing recidivism.

There is a $46 million increase for the FBI and DEA, and it will hopefully begin to restore the American people's faith in these two valiant and extremely important organizations. There are good men and women who are in both agencies who serve the country very well; and by allowing the IG having the authority to look, I think will be a good thing.

There is a $252 million increase for the Immigration and Naturalization Service to enforce our immigration laws, hire additional Border Patrol agents, and continue the interior enforcement effort. This funding level also includes the President's request for an additional $45 million to achieve a 6-month application processing standard. There is a $150 million increase to enforce Federal and State gun laws and distribute gun safety locks.

This also empowers local communities to fight crime by providing $41.3 billion for State law enforcement assistance. This includes funding for programs to combat cybercrime and national security threats.

For the Department of Justice, the bill provides $21.5 billion in discretionary funding, $672 million above last year's level and $623 million above the President's request. This includes a $455 million increase to address critical detention requirements to house criminals and illegal aliens.

It also includes $5 million in support of the President's faith-based initiative at the Federal Bureau of Prisons, including a pilot program at Petersburg, Virginia, and Leavenworth, Kansas, and an increase for Federal penitentiaries. I firmly believe that faith can have a positive impact on the lives of those incarcerated, and I know that we must provide prisoners with something more positive than just putting them in prison; and a faith-based initiative which will be open to all faiths I believe can make a big impact in reducing recidivism.

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This also empowers local communities to fight crime by providing $41.3 billion for State law enforcement assistance. This includes funding for programs to combat cybercrime and national security threats.

For the Department of Justice, the bill provides $21.5 billion, $21 million
above the request. It provides full funding for the U.S. trade agencies, Census, and the National Institute of Standards and Technology, an increase of $29 million over the President’s request for the National Oceanic and Atmospheric Administration, including the National Weather Service.

The bill also includes $440 million on the conservation category as negotiated in the fiscal year 2001 Interior appropriations bill.

The National Weather Service has been diligent in its pursuit of a new National Severe Storm Laboratory building in Norman, Oklahoma. The gentleman from Oklahoma, Mr. Watts has been vigilant in his pursuit to provide the required capabilities of this laboratory. Beginning in 1998, he has obtained funding to establish the National Severe Storms Laboratory.

This year, through the efforts of the chairman of the Subcommittee on Treasury, Postal Service and General Government, the gentleman from Oklahoma (Mr. Istook), there is an agreement with the General Services Administration to actually construct this building. This committee has agreed to provide the above-standard GSA costs specified by the gentleman from Oklahoma. This facility will allow NOAA to improve the detection of tornadoes nationwide. The bill also includes the full $440 million, as I said, under the conservation category program as negotiated in the fiscal year 2001 Interior appropriations bill. So this I think will help the gentleman from Oklahoma (Mr. Watts) and the gentleman from Oklahoma (Mr. Istook) and the University of Oklahoma to deal with that issue dealing with NOAA.

For Judiciary, $63 million will begin the renovations at the U.S. Supreme Court, about half the amount needed to protect the life, safety and security of the millions of people who use that building every day. It will go to the attorneys who ensure the fairness of our criminal justice system by representing indigents in criminal cases.

For the Department and the Broadcasting Board of Governors, the bill provides $7.7 billion, $837 million above last year’s appropriations, per the request of the Bush administration and per the request of Secretary Powell.

It includes a programming increase of $419 million for diplomatic readiness and reform, including 360 new positions and major technology modernization, $1.3 billion, the full request, the full request, because of embassy security problems, for urgent embassy security needs, increased the construction of new secure replacement embassies and consulates.

Just last week, on July 12, the State Department released its first annual report on sexual trafficking in persons. The Congress ought to know that there are at least 700,000 individuals a year, many women and children, are trafficked each year across international borders for sexual purposes. These victims are often subject to threats and violence and horrific living conditions. We must not tolerate this equivalent of modern-day slavery.

The bill includes $3.8 million for important new initiatives to combat trafficking, including the cost of an office within the State Department to coordinate interagency anti-trafficking activities, and an international conference to develop systematic international solutions to the problem. Fifty two million dollars is brought to this country alone every year for that purpose, and the subcommittee plans on holding a hearing, in-depth hearings on this, when we come back after the Labor Day break.

The bill also includes $479 million for the Broadcasting Board of Governors, $9 million above the request, which includes funding for broadcasting initiatives in East Asia and the Middle East, and also making sure that the broadcast facilities in Sudan, where we know that they have slavery. For the miscellaneous and related agencies, the bill includes $2.1 billion, $300 million above the current year level; $726 million for the Small Business Administration, an increase of $186 million above the President’s request for important lending and assistance programs for the Nation’s entrepreneurs; $232 million for the Maritime Administration, an increase of $128 million above the President’s request, including funding for the Maritime Security Program, the title 11 loan program and the important efforts to dispose of the backlog of obsolete merchant vessels, which we hope we can finally put to rest once and for all.

$356 million, the requested amount for the Securities and Exchange Commission. I strongly support the SEC’s recent effort to strengthen their enforcement of disclosure rules. Foreign corporations doing business in Sudan and other countries having a direct role in human rights abuses in Sudan have been able to offer securities to American investors; and as a result, these investors are unwittingly helping to subsidize these atrocities. American investors are helping to subsidize terrorism. American investors are helping to subsidize slavery.

We appreciate what the SEC did, and we will continue to insist on the full exercise of existing authorities to inform and protect American investors in this area, and this message goes out to the new chairman of the SEC when he takes over. But I appreciate the acting chairman’s efforts in this regard.

Mr. Chairman, this bill provides funding of $3 million for the Commission on International Religious Freedom to monitor violations of religious freedom abroad and make policy recommendations to the Department.

I am particularly concerned about the denial of equal treatment to Coptic Christians by the government of Egypt. Funding for this Commission will help to ensure that such violations are given the attention they deserve by our foreign policymakers, whether being Egypt, whether being China, or wherever it may be.

This is a very quick summary of the recommendations before the House today. The bill gives no ground on the ongoing war against crime and drugs and provides the resources to State and local law enforcement that has helped bring the violent crime to its lowest level since the Justice Department began tracking it. It includes major increases for the State Department to allow the Secretary, Secretary Powell, to rejuvenate and reform the Department and to continue the important, ongoing efforts to improve embassy security. It represents our best take on matching the needs with scarce resources.

I want to thank the gentleman from New York (Mr. Serrano), the ranking member, for his very effective and, I might say, the gentle- man is a good friend and someone we have worked very, very closely with. I want him to know that I appreciate his principal component of his thorough understanding of the programs in this bill, and I like sitting next to him with his great sense of humor, so I just wanted to thank him.

I also would like to thank all of the members of the subcommittee for their help. The gentleman from Kentucky (Mr. Rogers), who had been the chairman of this committee for 6 years, has helped me with regard to a number of issues. I would also like to thank the gentleman from Arizona (Mr. Kolbe), the gentleman from North Carolina (Mr. Taylor), and the gentleman from Ohio (Mr. Regula), the gentleman from Iowa (Mr. Latham), the gentleman from Florida (Mr. Miller), the gentleman from Louisiana (Mr. Ohiani), the gentleman from West Virginia (Mr. Mollohan), the gentleman from California (Ms. Roybal-Allard), the gentleman from Alabama (Mr. Cramer), and the gentleman from Rhode Island (Mr. Kennedy). Finally, I want to thank the gentleman from Florida (Mr. Young), the full committee chairman, and the gentleman from Wisconsin (Mr. Obey), the ranking member, for their help in moving this bill forward. I would also be remiss if I failed to mention how much I appreciate the professionalism and the cooperation of both the minority staff and the majority staff.

I would like to thank the majority staff, Mike Ringle, who handles the budgets of the State Department and the United Nations; Leslie Albright, who ably works the Justice Department law enforcement programs, including the DEA, the U.S. Marshal Service, and the FBI; Christine Ryan, a former FBI professional who oversees the Commerce Department budget and who is marrying a Marine Corps officer.
in a few short weeks when we finally finish this bill.

I also want to thank Julie Miller, an extremely professional OMB official, who may even stay with the committee if we can get the approval, who has been detailed to the committee; and Carrie Hines, another top-notch professional who has been detailed to the committee.

I appreciate the top-notch efforts of Gail Del Balzo, whose experience on the Senate Budget Committee, as assistant parliamentarian of the Senate and as general counsel of CBO, has prepared her well for the position of clerk of this subcommittee.

These young professionals put in countless hours working weekends and late into the night. It is time spent away from their families and their friends, and yet they are dedicated to doing what is best for the American people, and we really appreciate them very much.

On the minority side, I want to say exactly the same thing. In particular, I would like to thank Sally Chadbourne, Lucy Hand, Nadine Berg, Rob Nabors and Christine Maloy from the democratic staff who were willing to pitch in during all the long hours spent putting this bill together. It has been a unique experience. It has been more bipartisan than I have seen, quite frankly, for a long, long while.

With that, I will just end by saying we tried hard to produce the best bill possible. It probably is not like the Ten Commandments. It is not perfect. I am sure there could be some changes here. While there cannot be any changes to the Ten Commandments, there can be in this bill, but we did not have that vision that the good Lord has, so we will be taking some amendments and doing some things, but I do hope Members will support the bill.
## Appropriations Bill, 2002 (H.R. 2500) (Amounts in thousands)

<table>
<thead>
<tr>
<th>FY 2001 Enacted</th>
<th>FY 2002 Request</th>
<th>Bill</th>
<th>Bill vs. Enacted</th>
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<tr>
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<td><strong>General Administration</strong></td>
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<td>United States Attorneys:</td>
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<tr>
<td>Direct appropriation</td>
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<tr>
<td>Interagency crime and drug enforcement</td>
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<td><strong>Federal Bureau of Investigation</strong></td>
<td></td>
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<tr>
<td>Salaries and expenses</td>
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<td>Counterintelligence and national security</td>
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<td>455,367</td>
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<td><strong>Total, Federal Bureau of Investigation</strong></td>
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<td>Salaries and expenses</td>
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<td>1,543,083</td>
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<td>-67,000</td>
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<td>1,490,929</td>
<td>1,476,083</td>
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<td><strong>Immigration and Naturalization Service</strong></td>
<td></td>
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<tr>
<td>Salaries and expenses</td>
<td>3,118,909</td>
<td>3,388,001</td>
<td>3,371,440</td>
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<tr>
<td>Enforcement and border affairs</td>
<td>(2,541,463)</td>
<td>(2,737,341)</td>
<td>(2,738,517)</td>
<td>(197,064)</td>
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<td>Citizenship and benefits, immigration support and program direction</td>
<td>(577,048)</td>
<td>(650,660)</td>
<td>(632,903)</td>
<td>(85,377)</td>
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<td>(Amounts in thousands)</td>
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<td><strong>Fee accounts:</strong></td>
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<td></td>
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<td>+107,402</td>
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<td>(1,993,941)</td>
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<td></td>
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<td><strong>Direct appropriations:</strong></td>
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<td>Legal assistance for victims</td>
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<td>+0</td>
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<td>Protection for older and disabled women</td>
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<td>+0</td>
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<td>Parental kidnapping laws report</td>
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<td>200</td>
<td>+0</td>
<td>+0</td>
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<td>Forensic exams of domestic violence study</td>
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<td>200</td>
<td>+0</td>
<td>+0</td>
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<td>Other crime control programs</td>
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<td>+0</td>
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<tr>
<td>Assistance for victims of trafficking</td>
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<td>58,925</td>
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<tr>
<td>Direct appropriations:</td>
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<td></td>
<td></td>
<td></td>
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<td>Public safety and community policing grants</td>
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<td>-262,167</td>
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<td>Management administration</td>
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<td>32,512</td>
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<td>+807</td>
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<td>Crime identification technology</td>
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<td>+69,687</td>
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<td>Safe schools initiative</td>
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<td>(17,000)</td>
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<td>+402</td>
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<td>Upgrade criminal history records</td>
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<td>-97</td>
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<td>DNA identification/crime lab</td>
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<td>Methamphetamine</td>
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<td>48,303</td>
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<td>+0</td>
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<td>+0</td>
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<td><strong>Juvenile justice programs</strong></td>
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### APPROPRIATIONS BILL, 2002 (H.R. 2500)—Continued
(Amounts in thousands)

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<th>Bill</th>
<th>Bill vs. Enacted</th>
<th>Bill vs. Request</th>
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<td><strong>Public safety officers benefits program:</strong></td>
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<tr>
<td>Death benefits</td>
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<td>Disability benefits</td>
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<td><strong>Total, Public safety officers benefits program</strong></td>
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<td>35,619</td>
<td>35,619</td>
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<td><strong>Total, Office of Justice Programs</strong></td>
<td>4,857,497</td>
<td>3,672,996</td>
<td>4,333,928</td>
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<td><strong>Total, title I, Department of Justice</strong></td>
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<td>(by transfer)</td>
<td>(6,632)</td>
<td>(6,632)</td>
<td>(6,632)</td>
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### TITLE II—DEPARTMENT OF COMMERCE AND RELATED AGENCIES

#### TRADE AND INFRASTRUCTURE DEVELOPMENT

**Office of the United States Trade Representative**

Salaries and expenses | 29,452 | 30,097 | 30,097 | +645 | |

**International Trade Commission**

Salaries and expenses | 47,994 | 51,440 | 51,440 | +3,446 | |

**Total, Related agencies** | 77,446 | 81,537 | 81,537 | +4,091 | |

#### DEPARTMENT OF COMMERCE

**International Trade Administration**

Operations and administration | 336,702 | 332,590 | 347,654 | +10,962 | +15,064 |

Offsetting fee collections | -3,000 | -3,000 | -3,000 | | |

Direct appropriation | 333,702 | 329,590 | 344,654 | +10,962 | +15,064 |

**Export Administration**

Operations and administration | 57,477 | 61,643 | 61,643 | +4,166 | |

CWG enforcement | 7,234 | 7,250 | 7,250 | +16 | |

**Total, Export Administration** | 64,711 | 68,893 | 68,893 | +4,182 | |

**Economic Development Administration**

Economic development assistance programs | 410,973 | 335,000 | 335,000 | -75,973 | |

Salaries and expenses | 27,936 | 30,057 | 30,057 | +2,121 | |

**Total, Economic Development Administration** | 438,911 | 365,057 | 365,057 | -73,354 | |

**Minority Business Development Agency**

Minority business development | 27,254 | 28,381 | 28,381 | +1,127 | |

**Total, Trade and Infrastructure Development** | 942,024 | 873,958 | 869,022 | -53,022 | +15,064 |

#### ECONOMIC AND INFORMATION INFRASTRUCTURE

**Economic and Statistical Analysis**

Salaries and expenses | 53,627 | 62,515 | 62,515 | +8,888 | |

**Bureau of the Census**

Salaries and expenses | 150,851 | 160,501 | 160,424 | +12,543 | +963 |

Periodic censuses and programs | 275,798 | 374,835 | 350,376 | +74,579 | -24,459 |

**Total, Bureau of the Census** | 426,649 | 535,336 | 510,798 | +87,121 | -23,506 |

**National Telecommunications and Information Administration**

Salaries and expenses | 11,412 | 14,004 | 13,048 | +1,056 | |

Public telecommunications facilities, planning and construction | 43,404 | 43,459 | 43,469 | +10 | |

Information infrastructure grants | 45,400 | 15,503 | 15,503 | -29,897 | |

**Total, National Telecommunications and Information Administration** | 100,216 | 73,023 | 72,017 | -28,199 | -1,006 |

**United States Patent and Trademark Office**

Current year fee funding | 786,119 | 856,701 | 846,701 | +64,000 | -10,000 |

(Prior year carryover) | (254,869) | (252,300) | (252,300) | (+27,411) | |

**Total, Patent and Trademark Office** | (1,037,000) | (1,099,001) | (1,120,001) | (+111,000) | (-10,000) |

Offsetting fee collections | -762,119 | -856,701 | -846,701 | -84,000 | +10,000 |

**Total, Economic and Information Infrastructure** | 586,522 | 678,934 | 604,332 | +67,800 | -24,602 |

#### SCIENCE AND TECHNOLOGY

**Technology Administration**

Under Secretary for Technology/Office of Technology Policy

Salaries and expenses | 8,062 | 8,236 | 8,294 | +32 | -144 |
### APPROPRIATIONS BILL, 2002 (H.R. 2500)—Continued

(Amounts in thousands)

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<tr>
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<th>Bill</th>
<th>Bill vs. Enacted</th>
<th>Bill vs. Request</th>
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<td>Procurement, acquisition and construction</td>
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<td><strong>Courts of Appeals, District Courts, and Other Judicial Services</strong></td>
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### APPROPRIATIONS BILL, 2002 (H.R. 2500)—Continued

(Amounts in thousands)

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<th>Item</th>
<th>FY 2001 Request</th>
<th>FY 2002 Bill</th>
<th>Bill vs. Request</th>
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<td>Court security</td>
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**TITLE IV - DEPARTMENT OF STATE**

**Administration of Foreign Affairs**

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<th>FY 2001 Request</th>
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### APPROPRIATIONS BILL, 2002 (H.R. 2500) — Continued

(Amounts in thousands)

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### APPROPRIATIONS BILL, 2002 (H.R. 2500)—Continued
(Amounts in thousands)

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<tr>
<th></th>
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<th>FY 2002 Request</th>
<th>Bill Enacted</th>
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<td>Direct loans subsidy</td>
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<td><strong>Total, Small Business Administration:</strong></td>
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<td><strong>State Justice Institute</strong></td>
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<td>Salaries and expenses 1/</td>
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<td><strong>TITLE VII - RESCissions</strong></td>
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<td><strong>DEPARTMENT OF JUSTICE</strong></td>
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<td>Emergency steel guaranteed loan program account (rescission)</td>
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<td>Wildlife conservation and restoration planning</td>
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<td>Grand total:</td>
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<td>(By transfer)</td>
<td>(80,868)</td>
<td>(78,932)</td>
<td>(1,936)</td>
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1/ The President's budget proposed $6.8 billion for State Justice Institute.
Mr. Chairman, I reserve the balance of my time.

Mr. SERRANO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 2507. I must begin by expressing my appreciation to the gentleman from Virginia (Mr. WOLF), the chairman of the subcommittee, and his great staff for the fair and bipartisan way they have handled this bill, with full consultation with every side. While we do not agree with every recommendation in the bill, we believe that, on balance, it is worthy of wide support on both sides of the aisle.

I have sat in hearings and markups with the gentleman from Virginia (Mr. WOLF) for the last 3 years, but this is my first with him at the helm of the Subcommittee on Commerce, Justice, State, and Judiciary. Having similarly landed at the top of the subcommittee with no prior service on it, I know how hard he has had to work to master the many and varied agencies and issues now under his jurisdiction, and I admire how well he has done.

Staff on both sides of the aisle have made meaningful contributions to this process. They are Gail and Mike, Christine, Leslie, Julie and Carrie for the majority, as well as Jeff from the personal staff of the gentleman from Virginia (Mr. WOLF); on our side, Sally, Rob, Christine; and from my own staff, Lucy and Nancy. Those are folks who are professionals, who do their job well and who make us look good all the time and, therefore, serve our country and its citizens very well.

Mr. Speaker, the budget request was troubling, with deep cuts to important programs and questionable assumptions about congressional actions on fees and program changes. This bill is a great improvement on that budget request. Perhaps most important, the bill restores the unreasonable cuts proposed in the President’s budget for State and local law enforcement and COPS. The budget request was almost $1 billion below fiscal year 2001 levels for these programs, but the bill restores $601 million, including $150 million for COPS hiring. We are not all the way back, but we are moving in the right direction.

The bill supports the Secretary of State’s initiatives to invest in diplomacy as well as the security technology and infrastructure requirements of the State Department. The bill includes $7.4 billion for the State Department, an increase of $802 million, or 12 percent above the current year. For core diplomatic activities under the Administration of Foreign Affairs account, the bill is 17 percent above fiscal year 2001. A significant investment is needed to ensure that the Secretary has adequate resources, both people and technology, to carry out our foreign policy and national security objectives and to ensure that our employees overseas work in the most secure environment.

In contrast to bills in past years from this subcommittee, the bill fully funds the request for international peacekeeping. Peacekeeping, as we all know, can advance U.S. policy goals at a fraction of the cost of sending U.S. forces into trouble spots.

While the funding provided for assessed contributions to the U.N. and other international organizations is close to the amount requested, there are no funds for rejoining UNESCO as proposed in the [insert name of House-passed State Department authorization bill], which could create a problem down the line. The fence around $100 million of U.N. dues, pending certification that the U.N. is not exceeding its budget, has raised administration concern. But, unlike similar provisions in past House bills, it draws attention to the need for budget discipline but should not lead to any new arrears.

Our side, Mr. Chairman, is quite pleased with the overall level of funding for NOAA activities in coastal and ocean conservation, the management and preservation of our Nation’s fisheries, the weather forecasting activities, as well as the satellites and data systems that support them, plus our efforts to address critical research into global climate change and other oceanic and atmospheric phenomena are so important to our economy and environment as well as to the health and safety of our people. Within NOAA, Conservation Trust Fund activities are fully funded.

We are also delighted to see the Legal Services Corporation funded at the requested level, avoiding the exercise on the House floor we have had to go through for the last 6 years to restore cuts made in committee that are not supported by a majority in Congress.

I want to take special occasion to thank the gentleman from Virginia (Mr. WOLF), the chairman of the subcommittee, for the good job in partially restoring these programs and initiative to invest in diplomacy.

The full requests for the EEOC and the Civil Rights Commission are included, and the Justice Department’s Civil Rights Division is funded through that exercise.

The full requests for the JASON project and the National Oceanic and Atmospheric Administration. The JASON project is a state-of-the-art education program that brings scientists into classrooms through advanced interactive telecommunications technology. The program is really designed to excite students about the sciences and to encourage them to pursue higher education in the sciences.

We have had many speeches on this floor about the importance of science and science education. The JASON program benefits from the scientific information and expertise available from NOAA that can be incorporated into the JASON curriculum and the annual
expedition. It extends benefits by encouraging students to become future scientists.

Finally, I would like to mention the Ohio WEBCHECK program. This innovative and award-winning program allows for quick and convenient background checks to be completed over the Internet.

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The Ohio system allows fingerprint images of two fingers and two thumbs to be electronically transmitted for a criminal background check through the Ohio Bureau of Criminal Identification. This is especially important for people who are hiring counselors, who are hiring adults that deal with children. It avoids a lot of problems.

Last year, we provided $5 million of Federal funding to hook WebCheck into the FBI fingerprint system for a comprehensive national check. I want to thank my colleagues for recommending additional funding for this project so that it can be completed in a manner that will make it possible for all States to set up similar programs and hook them into the FBI system.

Handy, convenient, and comprehensive national background check system will provide a safer environment for our children and the elderly. I strongly urge my colleagues to support this appropriations bill.

Mr. SERRANO. Mr. Chairman, I yield 3 minutes to the gentleman from West Virginia (Mr. MOLLOHAN).

Mr. MOLLOHAN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman. I rise today in support of H.R. 2500, the appropriations measure funding the Departments of Commerce, Justice, State, the Judiciary, and related agencies.

I want to compliment the chairman, who has done a terrific job, the gentleman from Virginia (Mr. WOLF), and the ranking member, the gentleman from New York (Mr. SERRANO), who has done an equally terrific job in putting this bill together. By and large, it restores many of the cuts proposed in the President's budget request.

In his budget request, President Bush asked the Congress to rescind $10 million from the remaining unobligated balances in the Emergency Steel Loan Guarantee Account. In response to the President's request to rescind the steel loan guarantee money, the committee has indeed rescinded it.

As my colleagues will recall, the Emergency Loan Guarantee Act was established in 1989 to assist American steel producers who have been battling an onslaught of illegally-dumped foreign steel which has crippled the U.S. steel industry.

Our domestic steel industry is in crisis. There simply is no other way to describe it. Nearly 23,000 steelworkers have lost their jobs as a result of this crisis, and 18 steel producers have filed for bankruptcy. Current import levels still remain well above pre-crisis levels.

President Bush recently requested that the International Trade Commission initiate a 2001 investigation on the impact of steel imports on our U.S. steel industry.

Given all of these facts, now is not the time to rescind monies from the very fund established to help our domestic steel industry weather the storm. I recognize that unobligated balances exist in the account created to fund this program. Changes were needed to make the program more accessible to American steel companies without imposing significant additional costs on the Federal Government.

Under the leadership of Senator Byrd, changes to the Emergency Steel Loan Guarantee Act were recently approved by the other body. Hopefully, these changes will make the program more accessible to more of our steel producers.

That being the case, it seems unwise at this time to rescind funds from this important program. I am hopeful that during conference, this rescission can be eliminated.

Mr. SERRANO. Mr. Chairman, I yield 3 minutes to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Chairman, I like to begin by thanking our chairman, the gentleman from Virginia (Mr. WOLF), for the excellent leadership he provided in this subcommittee, and also my ranking member, the gentleman from New York (Mr. SERRANO), for his work in this important piece of legislation and all that this legislation is going to do to fund important projects.

As a member of the subcommittee, and a new Member, I know very difficult discussions. While I was pleased with many of the decisions that were made, I would like to take this opportunity to raise a few of the issues that I believe deserve even greater attention.

First and foremost is the Office of Juvenile Justice and Delinquency Prevention, which was funded at the same level as last year's request. In particular, I want to bring this House's attention to title V of OJJDP, which was also held at last year's level.

There are few areas in government where programs work more effectively and we get more of a return on our dollar than in the area of title V, which funds critically successful initiatives such as the Safe Schools and Healthy Students Program. This helps keep kids out of trouble, and it also helps provide flexible resources to our districts. Mr. Chairman, I requested a greater allocation in this area.

In other areas, let me briefly touch upon the economic development. I think we should not have reduced funding for the EDA, the Economic Development Administration, or eliminated funding for the New Markets Initiative.

In addition, I think we should also have pushed more for trade agreements and globalization adjustment assistance through the EDA that I think will move our nation more importantly into a global economy. I pointed that out to Secretary Evans and Ambassador Zoellick.

For our efforts in Native American country, let me say that with even more increases, I believe we could have accomplished much more, particularly on Native American reservations where the alcoholism rate occurs at 950 percent times the non-native communities.

With violent crime on the rise on Native reservations, and with 90 percent of it attributed to alcohol-related crime, I think we should be putting more resources in this effort.

Finally, as a Representative of the "steel state," Rhode Island, I would like to support the initiatives that go into the National Oceano graphic and Atmospheric Administration. The administration's request in the committee's bill offers funding for programs like Sea Grant and Coastal Zone Management and a new Members Program. This helps keep our fishing stock.

Let me conclude by once again congratulating the chairman for his important leadership, thank the ranking member for his great leadership, and say that I look forward to working with both of them on continued funding for these priorities that I have just outlined, as well as many others that I have not had time to delineate.

Mr. SERRANO. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana (Mr. VISCLOSKY).

Mr. VISCLOSKY. Mr. Chairman, I thank the gentleman very much for yielding time to me. I also want to thank the gentleman from Virginia (Mr. WOLF) and the gentleman from New York (Mr. SERRANO) for the fine work they have done on this bill. I do plan to support it.

I rise now to indicate my concern over a provision mentioned by my colleague, the gentleman from West Virginia (Mr. SERRANO) for the rescission of $10 million from the $145 million Steel Loan Guarantee Program.

The problems that the steel industry faces are manyfold, but one is the complete collapse of the ability to get financing, as well as the number of companies now that find themselves in bankruptcy in the United States of America.

Since December 31, 1997, we have had 18 companies declare bankruptcy, and one of the concerns that the industry faces is securing financing. We have a loan guarantee program in place. It took a period of time to get up and
Running with it. There were initially some problems as far as the bureaucracy contained therein, and the problem continues to persist as far as securing the guarantees for private investment firms to loan the industry money. Today those guarantees are at 85 percent.

Given the fact that 21 percent of all steel capacity in the United States of America today is in bankruptcy, I think the provision in this bill sends a very negative and very bad signal to those institutions and companies who are looking for a reduction in the monies that will be available for those guarantees for the fiscal year. We are not only talking about tonnage in bankruptcy, we are not only talking about companies in bankruptcy, we are talking about people.

The fact is, we have 42,556 Americans working for those 18 companies, some of which may not make it without this loan guarantee program. We have to couple that with 23,000 people who, over the last 2½ years, have also lost their jobs in this industry.

I am concerned that this program has a rescission attached to it. I would hope that it can be rectified in conference with the Senate at some future date.

Mr. WOLF. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to clarify something. There were a number of questions by Members with regard to the gun safety lock issue. I would like to make a clarification for the RECORD in the interest of this.

Regarding the distribution of gun safety locks, the report accompanying this bill expresses the committee’s support for the use of gun safety locks, and would encourage the distribution of these locks to handgun owners.

The report also expresses the committee’s concern regarding reports that some of these safety locks have failed or do not work on certain handguns. We understand that the Department of Justice is reviewing the availability of standards for gun safety locks, and private industry groups have also sought the promulgation of such standards.

The report directs the Department of Justice to develop national standards for gun safety locks. The committee intends for the Department to consult with private industry groups and other interested parties in the development of these standards.

Further, we understand the interim standard for gun safety locks could be in place in 6 months.

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

Mr. SERRANO. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. Dicks).

Mr. DICKS. Mr. Chairman, I rise in very strong support of this important legislation. I want to do first of all thank the gentleman from Virginia (Mr. WOLF), in his first year as Chairman of this important appropriations subcommittee, and the gentleman from New York (Mr. SERRANO), the ranking Democratic member and his staff. I particularly want to tell them how much I appreciate their cooperation in funding the so-called “conservation amendment.”

Last year, the Department adopted a provision that authorized at $1.16 billion last year and will increase up to $2.4 billion by 2006 based on the Violent Crime Trust Fund model, which keeps the authority for spending for these important conservation programs, of which are $445 million in this bill, within the jurisdiction of the Committee on Appropriations, and allows us to have annual oversight.

But what it has done is double and now even more than double the amount of money that is available for conservation spending.

There were some last year who were advocating an entitlement that would have taken this off the budget. I just want to compliment the chairman and the ranking member for helping us keep our commitment and telling the people of the country that we, the appropriators, are just as interested in conservation. We have programs like the salmon recovery program, the Pacific Salmon Treaty, the commemorative coins, and they got on and on and on, that will be benefited by this important provision. I am pleased that, when we add this up, it is $1.76 billion for conservation this year between the Interior appropriations bill and State, Justice, and Commerce. Out of my mouth, if we are fighting to try and restore the salmon runs in Washington, Oregon, Idaho, California, and in Alaska that have been severely hurt.

This money, 110 million for the Pacific Salmon Recovery program, goes back to our Governors and then through programs for habitat recovery which is absolutely essential. The bill also provides an additional 25 million dollars to help Canada build the Canada Pacific salmon Treaty programs. I want to say how much I support this bill. I urge the House to give overwhelming support for this important legislation.

Mr. WOLF. Mr. Chairman, I reserve the balance of my time.

Mr. SERRANO. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Ms. VELAZQUEZ), the ranking member of the Committee on Small Business.

Ms. VELAZQUEZ. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, today’s bill provides funding for many critical priorities. I believe that the gentleman from Virginia (Chairman WOLF) and the ranking member, the gentleman from New York (Mr. SERRANO), have produced a bill that is an improvement over the past years. I thank them for their hard work on this legislation, which benefits many.

Unfortunately, I am afraid their hard work has fallen short for one of the most productive forces for America today, our small businesses. This bill will severely cut the Small Business Administration’s funding level.

The recent “long boom,” our greatest in history, came as a direct result of the productivity of American small companies and entrepreneurs. Small businesses employ half our workers, account for half our GDP, and grow almost 60 percent faster than large corporations.

Mr. Speaker, much of this success has been made possible through the programs of the Small Business Administration. But this bill will cut SBA’s budget that currently provides liquidity to small business across the country. It will, I fear, dry up assistance just when we most need to give our economy a boost.

This bill proposes to cut funding for the Small Business Administration’s loan guarantee program from $780 million this year to $728 million next year. Ten programs will be zeroed out and another hundred dozen or more will be so severely under-funded as to render them ineffective.

Later today, my colleague, the gentlewoman from New York (Mrs. KELLY), and I will offer an amendment to restore $17 million in funding for SBA. While still short of last year’s level, our amendment will maintain the very successful 7(a) general long guarantee program and two small business assistance programs, PRIME and BusinessLinc.

Our amendment is important because small business is big business in America. We aim to support the SBA’s mission of providing technical assistance and guarantees to today’s entrepreneurs, who are often tomorrow’s Intel, Apple, or FedEx. Most importantly, we want to provide the tools that help so many better themselves, their families and their communities.

That is the point, after all, of a strong economy.

Mr. WOLF. Mr. Chairman, I reserve the balance of my time.

Mr. SERRANO. Mr. Chairman, I yield 2 minutes to my long-time colleague, the gentleman from New York (Mr. CROWLEY).

Mr. CROWLEY asked and was given permission to revise and extend his remarks.

Mr. CROWLEY. Mr. Chairman, I rise in strong support of the Commerce, Justice, State bill, and would like to express my gratitude to the chairman, the gentleman from Virginia (Mr. WOLF), for his hard work in crafting this bipartisan bill. I would also like to recognize my good friend, the gentleman from the Bronx, New York, (Mr. SERRANO), who has worked tirelessly for his constituents, for all of New York City, and for all of America from his position on the Committee on Appropriations and throughout his many, many years in Congress.

With regard to international issues, as both the representative of one of the most diverse congressional districts in the Nation and a member of the Committee on International Relations, I
would like to applaud this committee for recognizing the value inherent in the United States playing a key role in the international community and in particular supporting international peacekeeping operations. 

Here in the U.S., this legislation also provides important funding for a number of community service and anti-crime programs, effective programs that have helped our Nation, especially our hometown of New York City, experience the lowest crime rate in decades.

We need to continue to invest in our people, both here in the U.S. and abroad. This bill does that, and I congratulate the chairman and the ranking member for their work and for their dedication.

The CHAIRMAN. The Chair would advise the Members that the gentleman from Virginia (Mr. WOLF) has 10½ minutes remaining, and the gentleman from New York (Mr. SERRANO) has 10 minutes remaining.

Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin (Mr. OBEY), our ranking member.

Mr. OBEY. Mr. Chairman, I simply would like to do two things: first of all, congratulate the gentleman for the bill he has brought to us. I obviously do not agree with all of it, but I certainly intend to support it unless some surprises occur on the House floor. I think he has done a good job in drafting this bill.

Having said that, I would like to try to determine whether or not we can reach a reasonable understanding about what our plans are for this evening. The problem we face is that at this point we have some 31 amendments filed, we have other amendments that are being faxed to the leadership on both sides of the aisle, and the longer that this process goes on, the more amendments we are going to have to deal with for the remainder of consideration of this bill.

I would simply rise at this point to say that I would like to see us reach an agreement under which we could ask all Members to have their amendments in tonight so that we would be able tomorrow to try to work out time agreements on all these subsequent amendments. And if we can do that, we can have some chance of finishing the bill either tomorrow or early the next day.

The problem we face, as I understand it, is that if the majority is not going to be allowed back on the floor tomorrow morning. We are going to be supereceded by another bill, and I am told by majority staff that that means we are not likely to get to the floor until 2:30 or 3 p.m. tomorrow afternoon. If that is the case, and if we have 60 amendments pending, there is no way on God’s green earth we will even finish this bill tomorrow.

So it seems to me if we want to accelerate our opportunity to finish this bill, we would first of all try to get an agreement that Members, if they want amendments considered, would have to get them in tonight; and then we can try tomorrow, while the other bill is being worked on, the gentleman from Virginia and the gentleman from New York can try to work out a time agreement on whatever amendments we have remaining.

I just wanted the House to understand that I am perfectly willing to try to work out these arrangements, but we have been in committee since 10 a.m. this morning. We did not start this bill until 7 p.m. That was not our call; it was the majority that did the scheduling, and it seems to me that we ought to know that we will get out of here at a reasonable time tonight. I do not enjoy the prospect of having amendments being debated here and Members coming in in the middle of the night having no idea what we have been debating and voting on the fly.

I do not think that serves the interest of this institution.

So I want to notice the House that if we cannot get an agreement on a reasonable time, there tonight, I will begin a series of motions; and we are not going to get very far on this bill.

With that, I thank the gentleman for yielding me 3 minutes.

Mr. WOLF. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania (Mr. MURTHA).

Mr. MURTHA. Mr. Chairman, in 1998 this House passed landmark legislation. We passed legislation trying to get the Justice Department under control. Some of my colleagues may remember Joe McDade, who was a personal friend to many of us and who went through 8 years of the Justice Department investigating him and indicting him; and then, in about 4 hours of deliberation by a jury, he was found not guilty.

We passed legislation then saying that the Justice Department would have to reimburse out of their money not guilty. That still stands today. We also passed legislation that said any prosecutor, meaning any U.S. Attorney, must practice under the State laws, the ethics of the State laws. Well, the Justice Department, some U.S. Attorneys, have fought us all during this period of time. Matter of fact, in this legislation, prosecutors from all over the country came to this body, lobbed against us, the White House lobbed against us, and we beat them 350 to 50. Why? Because there was no confidence in the Justice Department. No confidence in the FBI.

During that trial, Joe McDade, where they charged him as a subcommittee chairman with racketeering, they charged him with illegal garbage, meaning campaign contributions; they charged him with bribes, meaning honorariums. They leaked information during this entire 8 years. I sat by Joe McDaede when I was chairman of the ranking member on the Subcommittee on Defense, and every day he deteriorated in health and emotional stability, and it ruined his life for 8 years. He was acquitted, but he still has not gotten over this.

Now, the point I am making today is that I was prepared to introduce legislation, because two of the things that produced the bill out in conference, and it was an omnibus bill, is that there would be an independent counsel investigate the Justice Department and then it would publicize what happened to the people that were wrongdoing. They were thrown out. Now, I have hesitated since that time because the Justice Department kept saying we are going to get it under control. Well, I find the new Deputy Attorney General has said some things that give me confidence that he is going to try to get the FBI and the Justice Department under control.

I have confidence the new FBI director realizes that the public has lost confidence in the FBI. As a matter of fact, this House would not have voted 350 to 50 to condemn or to put controls on the Justice Department and the U.S. Attorneys if it had not been for the lack of confidence of the public throughout the greater country.

But I am not going to offer that amendment, those two amendments, because I believe the new Attorney General and the Deputy Attorney General and the FBI director are moving in the right direction. But I hope by this time next year that this subject will be a subject of the past and people will regain confidence in the FBI and the Justice Department.

Mr. SERRANO. Mr. Chairman, I yield myself 2 minutes to the gentleman from Nebraska (Mr. BEREUTER) for a colloquy.

Mr. BEREUTER. Mr. Chairman, I reserve the balance of my time.
People's Republic of China is being created pursuant to P.L. No. 106-286. This Member is pleased to note the distinguished gentleman from Virginia (Mr. WOLF) is also a member of this important commission designed to report on human rights development and the rule of law in the People's Republic of China.

Because it was expected to take considerable time to bring the commission's operations into being, including the actual naming of the congressional and executive branch members, the fiscal year 2001 appropriation was set at only $5 million. We expect the commission will begin functioning in the coming weeks. Therefore, in anticipation of a full active commission, this Member had earlier suggested an amount of $1.5 million to cover the commission's operations for the full fiscal year of 2002.

This Member would ask the chairman about his willingness to seek adequate funding for the commission, as we would certainly trust the chairman's judgment in seeking such adequate funding in conference.

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

Mr. BEREUTER. I yield to the gentleman from Michigan.

Mr. LEVIN. I thank the gentleman for yielding. Mr. Chairman, I would strongly support what the gentleman from Nebraska has proposed.

As relating to the appropriations for the Congressional Executive Commission on China, currently half a million is appropriated for that Commission. We understand that the gentleman's staff is in agreement that the Commission needs $1.5 million for fiscal year 2002 and that the gentleman, the distinguished chairman, will pursue $1.5 million for fiscal year 2002 in conference.

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

Mr. BEREUTER. I yield to the gentleman from Nebraska.

Mr. WOLF. Mr. Chairman, the gentleman from Michigan is absolutely correct, quite frankly, if they needed $2 million to do a good job, particularly with regard to China, but we will agree and make sure that that $1.5 million is in there as per the request of the gentleman from Nebraska (Mr. BEREUTER) and the gentleman from Michigan (Mr. LEVIN).

Mr. Chairman, I yield 2 minutes and 30 seconds to the gentleman from Maryland (Mr. GILCHREST). Mr. GILCHREST. Mr. Chairman, I thank the chairman for yielding me time.

Mr. Chairman, I would like to thank the chairman for the inclusion of funding for marine protected areas in this bill.

In the Chesapeake Bay we are already using marine protected areas to ensure the recovery of species such as oysters and blue crabs. We are finding that with the involvement of recreational and commercial fishersmen as well as Federal, State and local governments, marine protected areas will play a critical role in restoring over-exploited fish species.

As chairman of the subcommittee on this issue, I am a strong proponent of using a variety of types of marine protected areas to ensure conservation and sustainable use of our marine resources in the Chesapeake and throughout our Nation's waters.

The President's funding request for marine protected areas is based upon this principle as described in Executive Order 13158, which reads, in part, "An expanded and strengthened comprehensive system of marine protected areas throughout the marine environment would enhance the conservation of our Nation's natural and cultural marine heritage and the ecologically and economically sustainable use of the marine environment for the future generations."

We feel that including the President's executive order in this colloquy is fundamental to sound marine resources.

I would like to conclude, is it the intent of the chairman that the National Oceanic and Atmospheric Administration may use funds appropriated for implementation of the Marine Protected Areas Executive Order 13158, as supported by the Secretary of Commerce on June 4, 2001, and in accordance with the President's budget request?

Specifically, in addition to direction given in the committee report for NOAA to develop a marine protected atlas, is it the intent of the chairman that funds may be used to implement the full scope of the Executive Order 13158, including the implementation of the Marine Protected Area Federal Advisory Committee, the development of a framework for communication amongst agencies and programs that utilize marine protected areas, and the consultation with local partners in preparation for expanding the scope of the Nation's marine protected areas?

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

Mr. GILCHREST. I yield to the chairman.

Mr. WOLF. Mr. Chairman, I thank the gentleman for his interest in the Chesapeake Bay. Quite frankly, no one has done more for the bay than the gentleman from Maryland (Mr. GILCHREST).

The committee does not intend to limit the ability of NOAA to implement the Executive Order 13158 on marine protected areas. Furthermore, the committee fully supports the President's budget request for marine protected areas.

Mr. GILCHREST. Mr. Chairman, I would like to thank the chairman for his help in this issue.

Mr. SERRANO. Mr. Chairman, I will yield myself whatever time I may concede in closing.

Notwithstanding the fact that there are some things, mechanics, that we have to work out as to the debate and how we handle amendments and everything else, I just wanted to close on this side by saying, as I said before, that this is a good bill, that Chairman Wolf has done a great job with both staffs in putting together a bill that we can support, as we heard from our ranking member, the gentleman from Wisconsin, Mr. OBEY.

As I said, notwithstanding whatever other problems we have, he intends to support the bill. I am hoping after all is said and done no harmful amendments have hurt the bill in any way. In that case, at this moment I would ask for all Members in bipartisan fashion to support the bill.

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

Mr. WOLF. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I will thank the gentleman. This will be the last time I thank him for his comments. I think there will be no negative amendments like that, and I ask Members on final passage to support the bill.

Mr. Chairman, I yield the balance of my time to the gentleman from Michigan (Mr. EHLERS).

Mr. EHLERS. Mr. Chairman, I rise in support of the legislation. As the chairman of the Subcommittee on Environment, Technology and Standards, which has jurisdiction over NOAA and NIST programs within the Department of Commerce, I wish to commend the new chairman of the Subcommittee on Commerce, Justice and State on crafting this appropriations bill.

Most Americans do not realize that NOAA makes up over 65 percent of the Department of Commerce's budget, covering a wide range of programs from studying our climate to mapping the ocean floor.

I am pleased to see that the subcommittee has recognized the importance of NOAA and has funded the agency at a level slightly above the President's request for fiscal year 2002.

I am also pleased that the appropriations bill increases funding for labs inside of the National Institute of Standards and Technology. Over the past 100 years, NIST and its employees have not let us down. It is all but impossible to name a major innovation which has not improved our quality of life with which NIST has not had some involvement. NIST Federal laboratories have partnered with industry to initiate innovations for safer and more fuel-efficient automobiles, biomedical breakthroughs like breast cancer diagnostics, refrigerant and air conditioning standards, analysis of DNA, and calibrations for wireless telecommunication systems, among numerous others.

Mr. Chairman, I strongly support the increase for NIST labs, and I hope that the chairman will be able to preserve this funding during conference negotiations with the Senate.
Mr. Chairman, let me highlight a few key programs that are funded by this bill: the Sea Grant program, which provides grants supporting vital marine research and education programs at universities all across the country; the Great Lakes Environmental Lab, which has made a wealth of important scientific contributions and ensures continued high-quality coastal science. It also fully funds the ARGO Float Program, which is crucial to global climate studies which have taken on increased importance to us.

In addition, it provides National Weather Service forecasts and warnings which more than pays for itself, monitors the water levels of the Great Lakes, and plays a major change in climate change research. This bill will help ensure that NOAA is able to fulfill its many missions, and that NIST will continue to serve our country well.

Mr. Chairman, I urge my colleagues to support this bill.

Mr. Chairman, today I rise to support H.R. 2500, the Commerce Justice State Appropriations Act. Mr. Chairman, by passing this bill the House will take an important stand against methamphetamine production across this country.

The drug, Methamphetamine, has become one of the most dangerous items on our streets. This drug is composed of products like rat poison, Comet, bleach, and lighter fluid. This drug can be injected, inhaled, or smoked. People around this country are spending their hard-earned income and risking their lives to find meth labs, and the damage is evident in the damage meth has done.

In its 1999 report, American Indians and Crime, the Bureau of Justice Statistics found that American Indians and Alaska Natives have the highest crime victimization rates in the nation, almost twice the rate of the nation as a whole. The report revealed that violence against American Indian women is higher than other groups. That American Indians suffer the nation’s highest rate of child abuse. Since 1994, Indian juveniles in federal custody increased by 50%. Even more troubling is that 55% of American Indians and Alaska Natives have the highest crime victimization rates in the nation.

Mr. Chairman, the Department of Justice and the Department of Interior developed the Indian country law enforcement initiative to improve the public safety and criminal justice in Indian communities. Let us work together to increase the funding levels in conference and provide the tribal justice systems with the funding necessary to combat criminal activity in Indian country.

Mr. Chairman, I want to thank CJS Subcommittee Chairman Frank Wolf and Senior Democratic Member Jose Serrano for working hard to provide adequate funding for the Department of Justice’s portion of the Indian Country Law Enforcement initiative. I am pleased that the subcommittee included in the Indian Country Law enforcement initiative at the levels contained in the President’s fiscal year 2002 budget request.

The drug, Methamphetamine, has become one of the most dangerous items on our streets. This drug is composed of products like rat poison, Comet, bleach, and lighter fluid. This drug can be injected, inhaled, or smoked. People around this country are spending their hard-earned income and risking their lives to find meth labs, and the damage is evident in the damage meth has done.

In its 1999 report, American Indians and Crime, the Bureau of Justice Statistics found that American Indians and Alaska Natives have the highest crime victimization rates in the nation, almost twice the rate of the nation as a whole. The report revealed that violence against American Indian women is higher than other groups. That American Indians suffer the nation’s highest rate of child abuse. Since 1994, Indian juveniles in federal custody increased by 50%. Even more troubling is that 55% of violent crime against American Indians, the victims report that the offender was under the influence of alcohol, drugs or both. That figure represents the highest rate of any group in the nation.

Mr. Chairman, the Department of Justice and the Department of Interior developed the Indian country law enforcement initiative to improve the public safety and criminal justice in Indian communities. Let us work together to increase the funding levels in conference and provide the tribal justice systems with the funding necessary to combat criminal activity in Indian country.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the Congressional Record. Those amendments will be considered on the record.

The Clerk will read.

The Clerk reads as follows:

H.R. 2500

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled: That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2002, and for other purposes, namely:

TITLE I—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $81,068,000, of which not to exceed $3,317,000 is for the Facilities Program 2000, to remain available until expended: Provided, That not to exceed 43 permanent positions and 44 full-time equivalent workyears and $8,451,000 shall be expended for the Department Leadership Program exclusive of anguish that occurred in these offices in fiscal year 2001: Provided further, That not to exceed 41 permanent positions and 48 full-time equivalent workyears and $4,967,000 shall be expended for the Offices of Legislative Affairs and Public Affairs: Provided further, That the latter two aforementioned offices may utilize non-reimbursable details of career employees within the caps described in the preceding proviso: Provided further, That the Attorney General is authorized to transfer, under such terms and conditions as the Attorney General shall specify, forfeited real or personal property of limited or marginal value, as such value is determined by guidelines established by the Attorney General, to a State or local government agency, or its designated contractor or transferee, for use to support drug abuse treatment and prevention: Provided further, That any transfer under the preceding proviso shall not create or confer any private right of action in any person against the United States, and shall be treated as a reprogramming under section 609 of the Budget Act of 1974.

Ms. CARSON of Indiana. Mr. Chairman, I move to strike the last word.

(Ms. CARSON of Indiana asked and was given permission to revise and extend her remarks.)

Ms. CARSON of Indiana. Mr. Chairman, I rise today in support of the Boys and Girls Clubs of America. I support its continued funding, which equals last year’s level.

The Commerce-Justice-State appropriations bill is the only place in the National Treasury that the authority use Local Law Enforcement Block Grants to support the Boys and Girls Clubs.

The Boys and Girls Clubs offer young people the ability to know that someone cares about them. Club programs and services provide a sense of usefulness, belonging, and influence.

These clubs give young people a chance to go during their free time where they can interact with others in a positive social environment.

The clubs serve over 3.3 million boys and girls. This is in over 2,800 locations around the world. About one-half of those are from single parent families and almost two-thirds are among minority families.

The challenges these children must cope with outstrip problems faced by previous generations. Drug, gang, and gun-related violence has risen to previously unimaginable heights. Police departments are challenged as never before, because Boys and Girls Clubs continue to do what they do best—using proven programs and caring staff to save lives.

The Boys and Girls Clubs teaches young people the realities of life. These include: character and leadership skills, crime and career, health and life skills, the arts, sports, fitness and recreation, and specialized programs.

Mr. Chairman, I commend you and your colleagues for including the people of Oklahoma in this Methamphetamine HotSpots program. This money is desperately needed to keep Oklahoma neighborhoods safe.

Mr. Chairman, I urge my colleagues to stand with me today against this dangerous, deadly drug and support H.R. 2500 the Commerce Justice State Appropriations Act.
CONGRESSIONAL RECORD—HOUSE

Most important is the Boys and Girls Clubs is neighborhood based—an actual place for the children to go—designed solely for youth programs and activities.

Support the Boys and Girls Clubs of America.

AMENDMENT OFFERED BY MR. BRADY OF TEXAS

Mr. BRADY of Texas. Mr. Chairman, I offer an amendment: The Amendment offered by Mr. Brady of Texas:

Page 2, line 7, after the dollar amount inserted the following: 

Page 57, line 14, after the dollar amount inserted the following:

Page 71, line 4, after the dollar amount inserted the following:

Mr. BRADY of Texas. Mr. Chairman, my amendment is simple. I want to ensure that the Department of State and the Department of Justice have the resources they need to start the process to close safe havens around the world for fugitives who commit crimes in America and flee our justice.

We can do this by updating and modernizing extradition treaties, as well as negotiating new ones. This problem is growing. The world is getting smaller; and whereas in the past criminals would flee to the county or State line to flee justice, today they flee the country and run on the continent. We have more than 3,000 indicted criminals who have fled America and are out of our reach. The crimes they have committed or are charged with are serious. They include murder, terrorism, drug trafficking, child abduction, money laundering, financial fraud, and the new growing area of cybercrime.

Currently, America has international extradition agreements with only 60 percent of the world’s countries. Unfortunately, it is important to note that nearly half of these were enacted before World War II, so they are hopelessly outdated. Even the others, State Department officials tell us those enacted prior to 1970 are basically ineffective because only specific crimes are listed in the treaties as extraditable, and crimes have changed a lot in the last three decades.

Mr. Chairman, we have crimes that are growing and criminals who are fleeing more and more, with criminal justice more outdated and less effective. This is not justice. It is not fair to the victims of these crimes, and it is not acceptable any longer.

Mr. Chairman, I am always cautious about how and where the hard-earned dollars of the American taxpayer are spent. More funding is necessary to help close these safe havens. Furthermore, this is something that can only be done by our Federal Government. It will not happen overnight. It will take many years, but we are capable of doing it.

Mr. Chairman, I had a provision inserted in the State Department fiscal year 2000 authorization bill requiring them to report back to us on our extradition agreements. I must say I was disappointed in the report. They seemed to gloss over the problems, perhaps to put politics over justice.

I am hopeful that the new administration will take a stronger position on closing these safe havens, and it is not acceptable any longer. This amendment is strictly designed to urge the new leadership of the Justice Department and State Department to let Congress know that we are serious about closing these safe havens, that we want both departments to work together and with Congress to update our treaties and to work toward the day where there is nowhere on this world to hide for those who commit crimes against America.

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

Mr. BRADY of Texas. I yield to the gentleman from Virginia.

Mr. WOLF. Mr. Chairman, the gentleman from Texas has played a leading role in trying to close safe havens abroad, and I share his desire to do that.

In response to the gentleman’s concerns, the committee has included report language for the Department of State to work with the Department of Justice to bolster our efforts to negotiate extradition treaties. We expect that the Department of Justice and Department of State will use increased funding in fiscal year 2002 for this purpose. Let me add, if the gentleman from Texas would like, after we move beyond debate and pass the bill, we can have a meeting with Department of Justice and Department of State to make sure that they know the intensity that both of us feel with regard to this.

Mr. BRADY of Texas. Mr. Chairman, I thank the gentleman from Virginia for his efforts. With his commitment to ensure that the Department of Justice and Department of State are being provided with the necessary resources and that we are prepared to tell Congress that they are prepared to tell Congress that they expect them to put a greater emphasis on negotiating and enforcing extradition treaties, Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

The Clerk reads as follows:

JOINT AUTOMATED BOOKING SYSTEM

For expenses necessary for the nationwide deployment of a Joint Automated Booking System including automated capability to transmit fingerprint and image data, $12,857,000, to remain available until expended.

NARROWBAND COMMUNICATIONS

For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio System including automated capability to transmit fingerprint and image data, $104,615,000, to remain available until expended.

COUNTERTERRORISM FUND

For necessary expenses, as determined by the Attorney General, $4,989,000, to remain available until expended, to reimburse any Department of Justice organization for: (1) the costs incurred in establishing the operational capability of an office or facility which has been damaged or destroyed as a result of any domestic or international terrorism; and (2) the costs of providing support to counter, investigate or prosecute domestic or international terrorism, including payment of rewards in connection with those activities; Provided, That any Federal agency may be reimbursed for the costs of retaining in foreign countries individuals accused of acts of terrorism that violate the laws of the United States.

That funds provided under this paragraph shall be available only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of this Act.

ADMINISTRATIVE REVIEW AND APPEALS

For expenses necessary for the administration of pardon and paroles and immigration-related activities, $178,751,000.

DEPORTATION TRUSTEE

For necessary expenses of the Federal Detention Trustee who shall exercise all power and functions authorized by law relating to the detention of Federal prisoners in non-Federal institutions or otherwise in the custody of the United States Marshals Service; and the detention of aliens in the custody of the Immigration and Naturalization Service, $1,721,000.

Provided, That the Trustee shall be responsible for overseeing construction of detention facilities or for acquiring land needed to such detention; the management of funds appropriated to the Department for the exercise of any detention functions; and the duties of the United States Parole Commission as authorized by law.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $50,735,000; including not to exceed $10,000,000 for expenses of the acquisition, lease, maintenance, and operation of motor vehicles, without regard to the general purchase price limitation for the current fiscal year.

UNITED STATES PAROLE COMMISSION

For necessary expenses of the United States Parole Commission as authorized by law, $10,915,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000,000 for expenses of collecting evidence, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General, $4,989,000, to remain available until expended.

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000,000 for expenses of collecting evidence, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General, $4,989,000, to remain available until expended.

Provided, That the Trustee shall be responsible for overseeing construction of detention facilities or for acquiring land needed to such detention; the management of funds appropriated to the Department for the exercise of any detention functions; and the duties of the United States Parole Commission as authorized by law.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $50,735,000; including not to exceed $10,000,000 for expenses of the acquisition, lease, maintenance, and operation of motor vehicles, without regard to the general purchase price limitation for the current fiscal year.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the United States Parole Commission as authorized by law, $10,915,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000,000 for expenses of collecting evidence, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General, $4,989,000, to remain available until expended.
this appropriation, and for the United States Attorneys, the Antitrust Division, the United States Trustee Program, the Executive Office for Immigration Review, the Community Relations Service, and offices funded through ‘‘Salaries and Expenses,’’ General Administration: Provided further, That of the total amount appropriated, not to exceed $2,500,000 shall be available for the United States National Central Bureau, INTERPOL, for official reception and representation expenses: Provided further, That notwithstanding any other provision of law, deposits to the Fund shall be available in such amounts as may be necessary to pay refunds due depositors: Provided further, That, notwithstanding any other provision of law, not to exceed $2,500,000 shall be available for automation expenses: Provided further, That the sum herein appropriated from the Fund shall be reduced as such offsetting collections are received during fiscal year 2002, so as to result in a final fiscal year 2002 appropriation from the Fund estimated at $0. For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109, $1,136,000.

For necessary expenses of the United States Marshals Service, including the acquisition, lease, maintenance, and operation of vehicles, and the purchase of passenger automobiles, not to exceed $105,000,000, to remain available until expended: Provided, That any transfer pursuant to the previous proviso shall be treated as a reprogramming under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section. Provided further, That any transfer pursuant to the previous proviso shall be treated as a reprogramming under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

Interagency Crime and Drug Enforcement

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, to include intergovernmental agreements with State and local law enforcement entities engaged in the investigation and prosecution of individuals involved in organized crime drug trafficking, $340,189,000, of which $50,000,000 shall be available until expended, That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed from this appropriation: Provided further, That any unobligated balances remaining available at the end of the fiscal year shall revert to the Attorney General for reallocation among participating organizations in succeeding fiscal years, subject to the reprogramming procedures set forth in section 605 of this Act.

For necessary expenses of the Federal Bureau of Investigation, $2,949,000, to be derived from the Department of Justice Assets Forfeiture Fund.

For payments to the Radiation Exposure Compensation Trust Fund of claims covered by the Radiation Exposure Compensation Act as in effect on June 1, 2000, $10,776,000.

SALARIES AND EXPENSES, INTERAGENCY LAW ENFORCEMENT

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, to include intergovernmental agreements with State and local law enforcement entities engaged in the investigation and prosecution of individuals involved in organized crime drug trafficking, $340,189,000, of which $50,000,000 shall be available until expended, That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed from this appropriation: Provided further, That any unobligated balances remaining available at the end of the fiscal year shall revert to the Attorney General for reallocation among participating organizations in succeeding fiscal years, subject to the reprogramming procedures set forth in section 605 of this Act.
General, $3,491,073,000; of which not to exceed $50,000,000 for automated data processing and telecommunications and technical investigative equipment and not to exceed $10,000,000 for unexpired contracts which shall remain available until September 30, 2003; of which not less than $448,467,000 shall be for counterterrorism investigations, foreign counterintelligence, and other activities related to our national security; of which not to exceed $10,000,000 is authorized to be made available for making advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to violent crime, terrorism, organized crime, and drug investigations: Provided, That not to exceed $45,000 shall be available for official reception and representation expenses: Provided further, That, in addition to reimbursable full-time equivalent workyears available to the Federal Bureau of Investigation, not to exceed 24,935 positions and 24,480 full-time equivalent workyears shall be supported from the funds appropriated in this Act for the Federal Bureau of Investigation.

CONSTRUCTION
For necessary expenses to construct or acquire buildings and sites by purchase, or as otherwise authorized by law (including equipment for such buildings); conversion and improvement of land, facilities, and buildings; and preliminary planning and design of projects; $1,250,000, to remain available until expended.

DRUG ENFORCEMENT ADMINISTRATION
SALARIES AND EXPENSES
For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential and character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; expenses for conducting drug education and training programs, including travel and related expenses for participants in such programs and the distribution of items of token value that promote the goals of such programs; purchase of not to exceed 1,358 passenger motor vehicles, of which 1,079 will be for replacement only, for police-type use without regard to the general purchase price limitation of $30,000; for police-type use without regard to the general purchase price limitation of $50,000; for equipping, and making improvements to the infrastructure of, and for the care and housing of Federal detainees held in the Joint Immigration and Naturalization Service and United States Marshals Service Buffalo Detention Facility, $2,738,517,000; of which not to exceed $5,000,000 is for payments or advances arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to immigration enforcement; to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General: Provided, That not to exceed $5,000,000 is to fund or reimburse other Federal agencies for the costs associated with the care, maintenance, and repatriation of aliens who are not permanent residents: Provided further, That none of the funds available to the Immigration and Naturalization Service shall be available to pay any employee overtime pay in an amount in excess of $2,000,000 during the fiscal year beginning October 1, 2001: Provided further, That uniforms may be purchased without regard to the general purchase price limitations of the act, and not to exceed $1,000,000 for police-type use without regard to the general purchase price limitations of the act, for the current fiscal year; and acquisition, lease, and making improvements to the infrastructure

CITIZENSHIP AND BENEFITS, IMMIGRATION AND NATURALIZATION SERVICE
SALARIES AND EXPENSES
For all programs of the Immigration and Naturalization Service not included under the heading “Enforcement and Border Affairs”, $4,300,000; of which not to exceed $400,000 for research shall remain available until expended: Provided, That not to exceed $5,000 shall be available for official reception and representation expenses: Provided further, That the Attorney General may transfer any funds appropriated under this heading to the Immigration and Naturalization Service for the provision of technical assistance and advice on corrections related issues to foreign governments, $3,830,971,000: Provided, That the Attorney General may transfer to the Health Resources and Services Administration such amounts as may be necessary for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: Provided further, That the Director of the Federal Prison System (FPS), where necessary, may enter into contracts with a fiscal agent fiscal intermediary claims processor to determine the amounts payable to persons who, on behalf of FPS, furnish health services to individuals committed to the custody of FPS: Provided further, That not to exceed $6,900,000 shall be available for Contract Confinement,7-17-01 CONGRESSIONAL RECORD — HOUSE H4089

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148, $45,000, to remain available until expended: Provided further, That the Attorney General may transfer to the Health Resources and Services Administration such amounts as may be necessary for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: Provided further, That the Director of the Federal Prison System (FPS), where necessary, may enter into contracts with a fiscal agent fiscal intermediary claims processor to determine the amounts payable to persons who, on behalf of FPS, furnish health services to individuals committed to the custody of FPS: Provided further, That not to exceed $6,900,000 shall be available for Contract Confinement,
Mr. SERRANO. Mr. Chairman, I move to strike the last word.

I understand we have come to the amendment of the gentleman from Virginia (Mr. SCOTT), and I know he is on the House floor somewhere. I take that back. He is on the House floor, but his amendment is not.

Mr. SCOTT. Mr. Chairman, if the gentleman will yield, we have had a discussion with the gentleman from Virginia (Mr. WOLF); and I think we are going to be able to work the amendment out without going through the process of considering it on the floor. I think we have worked things out. It involves a prison study. I appreciate the cooperation of the gentleman from Virginia.

The CHAIRMAN. The Clerk will read. The Clerk read as follows:

BUILDINGS AND FACILITIES


Provided, further, that labor of the Federal Prison Industries, Incorporated, is hereby authorized to make such contracts at a not-for-profit price for any other purposes authorized by the Omnibus Crime Control and Safe Streets Act of 1968, as amended (‘‘Omnibus Crime Control and Safe Streets Act’’), except as provided by section 1001(b) of the 1968 Act, shall be for the payment of claims, and expenditures which would be for administrative expenses, including the direct cost of such contracts at a not-for-profit price, are excluded from the limitation on administrative expenses, and for services as authorized by section 242(j) of the Immigration and Nationality Act, as amended; and

$35,000,000 for the Cooperative Agreement Programs; $6,000,000 for assistance to Indian tribes, of which:

(A) $35,191,000 shall be available for grants under section 201(b)(2) of title II of the 1990 Act, and

(B) $7,982,000 shall be available for the Tribal Courts Initiative, and

$4,989,000 shall be available for demonstration grants on alcohol and crime in Indian Country; and

$570,000,000 for programs authorized by part B of title I of the 1968 Act, notwithstanding the provisions of section 263 of the 1968 Act, of which $70,000,000 shall be for discretionary grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs; and

$11,975,000 for the Court Appointed Special Advocate Program, as authorized by section 218 of the 1990 Act;

$2,296,000 for Child Abuse Training Programs for Judicial Personnel and Practitioners, as authorized by section 224 of the 1990 Act;

$988,000 for grants for televised testimony, as authorized by section 225 of the 1990 Act;

$194,337,000 for Grants to Combat Violence Against Women, to be used as matching funds for any other Federal assistance for a domestic violence Federal case processing study, as authorized by section 1301 of Public Law 106–386; and

$320,000 shall be for the National Institute of Justice for grants, contracts, and other assistance for research and evaluation of violence against women.

$3,200,000 shall be for the Office of Juvenile Justice and Delinquency Prevention for the Safe Start Program, to be administered as authorized by part C of the Juvenile Justice and Delinquency Act of 1974, as amended, and

$5,000,000 shall be for the National Institute of Justice for grants, contracts, and other assistance for research on family violence;

$64,925,000 for Grants to Encourage Arrest Policies to States, units of local government, and Indian tribal governments, as authorized by section 1001(a)(19) of the 1968 Act;

$39,945,000 for Rural Domestic Violence and Child Abuse Enforcement Assistance Grants, as authorized by section 4025 of the 1994 Act;

$4,989,000 for training programs to assist probation and parole officers who work with released sex offenders, as authorized by section 4052(c) of the 1994 Act, and for local demonstration projects;

$3,000,000 for grants to States and units of local government to improve the process for entering data regarding stalking and domestic violence into local, State, and national crime information databases, as authorized by section 4002 of the 1994 Act;

$10,000,000 for grants to reduce Violent Crimes Against Women on Campus, as authorized by section 1108(a) of Public Law 106–386;

$40,000,000 for Legal Assistance for Victims, as authorized by section 1201 of Public Law 106–386; and

$35,000,000 for enhancing protection for older and disabled women from domestic violence and sexual assault as authorized by section 8001 of the 1994 Act;

$5,000,000 for the Safe Havens for Children Pilot Program as authorized by section 1301 of Public Law 106–386; and

$2,000,000 shall be for the purposes set forth in section 1008(a)(2) of the 1968 Act; (B) $60,000,000 shall be for Boys and Girls Clubs in public housing facilities and other areas in cooperation with State and local law enforcement; Provided, That funds may also be used to defray the costs of indemnification insurance for law enforcement officers, to remain available until expended, as authorized by section 1001(a)(2) of the 1968 Act; (C) $39,945,000 for Rural Domestic Violence and Child Abuse Enforcement Assistance Grants, as authorized by section 4025 of the 1994 Act; (D) $5,000,000 shall be for the National Institute of Justice for grants, contracts, and other assistance for a domestic violence Federal case processing study, as authorized by section 1301 of Public Law 106–386;

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $3,429,000 of the funds of the corporation shall be available for its administrative expenses, and for services as authorized by 5 U.S.C. 3109, to be computed on an accrual basis to be determined in accordance with the corporation’s current pre-retirement accounting system, and the amounts shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to other commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (‘‘the 1968 Act’’), and the Missing Children’s Assistance Act, as amended, including salaries and expenses in connection therewith, and the Victims of Crime Act of 1968, as amended, (‘‘the 1968 Act’’), and the Victims of Child Abuse Act of 1990, as amended (‘‘the 1990 Act’’), and the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–366); $2,519,575,000 (including amounts for administrative costs, which shall be transferred to and merged with the ‘‘Justice Assistance’’ account), to remain available until expended.

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For assistance authorized by the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), as amended (‘‘the 1994 Act’’); the Omnibus Crime Control and Safe Streets Act of 1968, as amended (‘‘the 1968 Act’’); the Victims of Child Abuse Act of 1990, as amended (‘‘the 1990 Act’’); and the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–366); (2) $565,000,000 for the State Criminal Alien Assistance Program for fiscal year 2006, as authorized by section 40801 of the 1994 Act; (3) $15,000,000 for the Safe Havens for Children Assistance Program, as authorized by section 40801 of the 1994 Act; (4) $48,162,000 for assistance to Indian tribes, of which:

(1) $521,849,000 for Local Law Enforcement Block Grants, pursuant to H.R. 728 as passed by the House of Representatives in February 14, 1995, except that for purposes of this Act, Guam shall be considered a ‘‘State’’, the Commonwealth of Puerto Rico shall be considered a ‘‘unit of local government’’ as well as a ‘‘State’’, for the purposes set forth in subparagraphs (A), (B), (D), (F), and (I) of section 101(a)(2) of H.R. 728, and for establishing new or enhancing existing programs involving cooperation between community residents and law enforcement personnel in order to control, detect, or investigate crime or the prosecution of persons for crime committed within any such area, that funds provided under this heading may be used as matching funds for any other Federal grant program, of which:

(A) $60,000,000 shall be for Boys and Girls Clubs in public housing facilities and other areas in cooperation with State and local law enforcement: Provided, That funds may also be used to defray the costs of indemnification insurance for law enforcement officers, to remain available until expended, as authorized by section 1001(a)(2) of the 1968 Act; (B) $6,000,000 shall be for the National Police Athletic League pursuant to Public Law 106–367, and

(C) $19,956,000 shall be available for grants, contracts, and other assistance to carry out section 102(n) of the 1994 Act;

(2) $656,000,000 for the State Criminal Alien Assistance Program, as authorized by sec- tion 242(j) of the Immigration and Nationality Act, as amended;
provided accounts for “Weed and Seed” program activities shall be managed and executed by the Attorney General through the Executive Office for Weed and Seed. Provided further, That all funds received from the Attorney General may direct the use of other Department of Justice funds and personnel in support of “Weed and Seed” program activities only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of this Act.

COMMUNITY-ORIENTED POLICING SERVICES: For activities authorized by the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322 (“the 1994 Act”) (including administrative costs), $1,015,498,000, to remain available: Provided, That no funds that become available as a result of deobligations from prior year balances, excluding those for program management and administration, may be obligated except in accordance with the section 605 of this Act: Provided further, That section 1703 (b) and (c) of the 1994 Act shall not apply to non-hiring grants made pursuant to part Q of title I thereof (42 U.S.C. 3796dd et seq.); Provided further, That all prior year balances derived from the Violent Crime Trust Fund for Community Oriented Policing Services may be transferred into this appropriation.

AMENDMENT OFFERED BY MR. LUCAS OF OKLAHOMA

Mr. LUCAS of Oklahoma. Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. LuCAS of Oklahoma:

Page 33, line 7, insert after the first dollar amount the following: “(increased by $11,700,000)” 
Page 34, line 7, insert after the first dollar amount the following: “(increased by $11,700,000)” 
Page 34, line 16, insert after the dollar amount the following: “(increased by $11,700,000)” 
Page 81, line 24, insert after the dollar amount the following: “(reduced by $11,700,000)”.

Mr. LUCAS of Oklahoma. Mr. Chairman, I rise to offer the following amendment to increase the funding for the methamphetamine enforcement and cleanup under the COPS program by $11.7 million. This increase is equal to the amount requested earlier this year by the Congressional Caucus to Fight and Control Methamphetamine, of which I am a member.

Mr. Chairman, meth is arguably the fastest growing drug threat in America today, with my home State of Oklahoma ranking number one, unbelievable as it may be, per capita in the nation for meth lab seizures. Over the past 7 years, the number of Oklahoma meth lab seizures has increased by an unbelievable 8,000 percent. With an average cleanup cost per lab of $3,500, that equals a substantial financial strain on Oklahoma as well as on the nation.

Since 1994, DEA seizures of meth labs have increased more than sixfold nationwide. We are halfway through the year, and already there have been more DEA and State and local meth lab cleanups than in the entirety of the previous year.

Mr. Chairman, an increase in funding is vital for State and local enforcement programs in their struggle to combat meth production and distribution and to remove and dispose of hazardous materials at meth labs.

I urge Members’ support for this amendment and their help in our fight against this extremely destructive and addictive synthetic drug.

Mr. WOLF. Mr. Chairman, I rise in strong opposition to the gentleman’s amendment.

This amendment would take $11 million from the Broadcasting Board of Governors, International Broadcasting Operations account. A reduction of this magnitude would trigger a significant reduction-in-force affecting up to 100 employees; it would silence the Voice of America in at least a dozen foreign language services around the globe; and it would force reductions of worldwide broadcast hours.

In fact, it goes just the opposite. We are broadcasts in the Sudan where there is slavery, terrorism, and this would take us back the other way.

The amendment would also eliminate funding for a new program initiative already under way, and expand broadcasting to the Middle East and Sudan in Arabic. This new program is designed to give the U.S. a voice in a very, very critical area.

U.S. broadcasting – the region is now ineffective, and the U.S. is not playing a role to counterbalance hate radio that is prevalent in the Middle East. This amendment would prevent this revamping of current programming and transmission strategies from moving forward.

The amendment would cause a rollback of efforts to fight jamming of U.S. broadcasts by governments such as China. When I was in Tibet, everyone I spoke to in Tibet listened to Radio Free China. Also, Vietnam that denies their citizens access to information. This jamming cuts off what for many is the only available source of objective news and information.

These offsets that the gentleman has chosen are simply unacceptable and would pretty much wipe out what the committee did. I strongly urge the rejection of the amendment.

Mr. SERRANO. Mr. Chairman, I move to strike the last word.

There is a way that the gentleman could get a lot of support on this side for his amendment; and that is, if he directs the cut to broadcasting to Cuba. So my question to him is, would he be willing to take the full amount out of broadcasting to Cuba?

Mr. LUCAS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. SERRANO. I yield to the gentleman from Oklahoma.

Mr. LUCAS of Oklahoma. Mr. Chairman, I am not sure at this particular time that I am in a position necessarily to agree to that. I would say this, though, in regards to both the outstanding chairman and the ranking member, that looking at this budget, clearly there is a $32 million increase for International Broadcasting Operations. I acknowledge that there is 7.8
percent increase in this particular fund and that my reduction would lower that increase to 5 percent. But the bottom line remains to me, we have a huge methamphetamine problem that is consuming our society here at home. I think we have an obligation to try and respond to that. I wish I could respond favorably to the gentleman, but I cannot.

Mr. SERRANO. Reclaiming my time, I guess that by that statement that is a “no,” but I just want to make sure before I made it clear to him that he had a great opportunity to pick up a lot of support on this side if he directs that fine amendment to a cut in Cuba broadcasting. If he did that, I would support him and he would be surprised how many Members on this side would support him. But I guess the answer is no, so in general terms, we would oppose cutting broadcasting because it would hurt areas of the world that need the support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. LUCAS). The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. CANNON of Oklahoma, Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Oklahoma (Mr. LUCAS) will be postponed.

Mr. WOLF. Mr. Chairman, earlier I had promised the gentleman from Utah (Mr. CANNON) that his amendment could be in order and be offered and he was not here. I know there is at least one Member on the other side.

Mr. Chairman, I ask unanimous consent that the gentleman from Utah (Mr. CANNON) be permitted to go back and offer his amendment and that the gentleman from New York (Mr. HINCHHEY) and the gentleman from Virginia (Mr. WOLF) be permitted to do the same.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

Mr. YOUNG of Florida. Mr. Chairman, reserving the right to object, and I am not going to object, but I make this reservation in order to have just a minute to say that we will agree to this, but Members have an obligation to be here as the bill is being presented if they have an amendment. We will agree to this particular unanimous consent request. We will not agree to it for any further UCs to go back to ancplace in the bill.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

Mr. OBEY. Mr. Chairman, reserving the right to object, I do so only to emphasize my total agreement with the comment of the gentleman from Florida. While in this instance agree to go back because there is one Member from each party who would otherwise not be able to offer their amendments. But I think Members need to understand it is hard enough for the committee to manage a bill. We try our level best to accommodate Members. And we try to help them shape their amendments if they need help, but Members need to be here when their amendments come up in the regular bill. If they are not here, the committee cannot be expected to jump through hoops in the future.

So I think Members need to understand from here on out on this bill, if you want to offer an amendment, you have to be here at that point in the bill when the amendment is eligible; or else they will not be considered for filing.

We are trying to help Members get out at a reasonable time tonight and make certain that Members' amendments are going to be dealt with tomorrow, but we need the presence of Members. So, again, I want to repeat what was said earlier. I also have urged any Member who is talking about filing an amendment to get that amendment filed in the Record tonight so that we know what universe of amendments we are going to be dealing with tomorrow, because the gentleman from Virginia (Mr. WOLF) and the gentleman from New York (Mr. SERRANO) are going to have a lot of things to do tomorrow, and they will have an opportunity to put together some kind of an agreement in the morning. But we need to know which amendments Members are going to offer. So if they are going to offer amendments, they need to get them filed in the Record tonight to facilitate the committee business.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia (Mr. WOLF) that the gentleman from Utah (Mr. CANNON) and the gentleman from New York (Mr. HINCHHEY) be permitted to have their amendments considered out of order?

There was no objection.

AMENDMENT OFFERED BY MR. CANNON

Mr. CANNON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CANNON: On page 12, line 21, strike “as in effect on June 1, 2000.”

Mr. CANNON. Mr. Chairman, I would like to thank the gentleman from Florida (Chairman YOUNG), the gentleman from Virginia (Chairman WOLF), and the gentleman from Wisconsin (Mr. OBEY), the ranking member, for their condescension in this matter.

Mr. Chairman, this amendment would provide a distinction in classes of people that Congress has already decided should be considered as one class. We recognize that there is not enough money available for the whole trust fund or to fund all of the claims under the Radiation Exposure Compensation Act. And I would just like to maintain a group, instead of making a distinction between groups.

Mr. WOLF. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, we accept the amendment. We sympathize with the gentleman's concerns regarding individuals not receiving their compensation payments. The bill includes $10,766,000 to make payments to those who qualify for compensation under the original Radiation Exposure Act.

The gentleman has a very, very good point. This program has now become in effect an entitlement program, with little or no discretion available to pay for it. Both the administration and the budget resolution propose to convert this to a mandatory activity.

I strongly support this proposal. I think the gentleman has a very good point. I read the article in the newspaper the other day about the elderly lady in Maryland whose husband died of radiation. Most of these people are getting very old, so I think it is important to provide it so everyone can be involved.

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

Mr. WOLF. I yield to the gentleman from Utah.

Mr. CANNON. Mr. Chairman, I have in fact introduced a bill in the House that would make this a mandatory expenditure instead of discretionary. My colleague from Utah in the other body has also introduced a bill. I suspect that the likelihood that this will pass the Congress is very high, and that I think it would eliminate the concern and the problem we have here.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Utah (Mr. CANNON).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MR. HINCHHEY

Mr. HINCHHEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. HINCHHEY: In title I, in the item relating to “FEDERAL PRISON SYSTEM—BUILDINGS AND FACILITIES”, after the aggregate dollar amount, insert the following: “(reduced by $73,000,000)”.

In title II, in the item relating to “ECONOMIC DEVELOPMENT ADMINISTRATION—ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS”, after the aggregate dollar amount, insert the following: “(increased by $73,000,000)”.

Mr. HINCHHEY. Mr. Chairman, this amendment would increase funding for the Economic Development Administration by $73 million. This would simply level-fund EDA at what it had last year.

Since 1965, the EDA has been helping communities build their infrastructure, develop their business base, rebuild their economies in the wake of natural disasters, plant closings and military base realignments, and also address persistent unemployment and underemployment problems.

Over the years, EDA has invested more than $16 billion all across the
country. It has been a good investment, generating almost three times as much supporting private investment. EDA public works programs help fund locally developed infrastructure projects that are critical to attracting private sector for businesses to local communities. Every dollar of EDA public works money generates an additional $10 in private investment results. It is clear, I think, that in each and every one of our districts, we have seen the effects of EDA.

Mr. PASCRELL. Mr. Chairman, I want to thank the gentleman from Virginia, Mr. Wolf, for his amendment to increase funding for EDA.

A program close to my heart within EDA, and I know the gentleman from Virginia would appreciate this, is the Trade Adjustment Assistance for Firms program funded by the Department of Commerce. This program has been incredibly successful in the State of New Jersey.

We need this help in the Garden State. It has not seen many benefits from the unfair trade agreements, such as NAFTA. John Walsh has done a tremendous job in New Jersey with the little resources that he has. This bill merely provides TAA level funding which is wholly unacceptable at this point.

The response for TAA is overwhelming, Mr. Chairman. The implementation of NAFTA and the globalization we see under WTO has only highlighted the demands for firms for this assistance. In New Jersey last year, 4,000 jobs were retained or created with the help of the TAA. This is critical.

It is interesting that in this country, many times the only way we can get health care is if you go to prison. What we are saying to the displaced workers in this globalization of trade, and the gentleman from Virginia knows this is quite true, these people have no place to go. We need this money best spent for our displaced workers, for unfair trade agreements, such as NAFTA. John Walsh has done a tremendous job in New Jersey with the little resources that he has. This bill merely provides TAA level funding which is wholly unacceptable at this point.

Mr. Chairman, I yield to the gentleman from New Jersey (Mr. PASCRELL). Mr. PASCRELL. Mr. Chairman, I want to thank the gentleman from New York (Mr. Hinchey); I thank the gentleman from Virginia (Mr. Wolf); and I thank the chairman, for our workers need no less.

Mr. WOLF. Mr. Chairman, I rise in strong opposition to this amendment. A reduction in funding for the Trade Adjustment Assistance Program will delay construction of seven partially funded projects.

One should go to a prison and see the conditions in the prison. One of the biggest problems in prison is prison rape. These are double and tripled bunked and have no place to go.

The Bureau of Prisons is currently operating at 33 percent above the rate of capacity, system-wide. Crowding at medium-security facilities is 58 percent above the rate of capacity, 48 percent at high-security penitentiaries.

While the gentleman has some merit to the concept of what he wants to do, he should not take money from the prisons. You cannot put a man or woman in prison for 15 years with terrible conditions and no rehabilitation and expect them to come out and be decent citizens. Higher levels of crowding potentially endanger staff, inmates, and the community. In fact, as you can well imagine, one does not do this could bring about riots in the prisons.

Further, the Bureau of Prisons is experiencing its third consecutive year of record population growth in fiscal year 2000, of over 11,400 inmates; and all indications are that it will continue to grow. The projections are inmate population will increase by 36 percent by the fiscal year 2008.

Infrastructure at existing Bureau of Prisons facilities is severely taxed by overcrowization, which causes maintenance problems, premature deterioration of physical plants. Of the Bureau of Prisons' 98 facilities, a third are over 50 years old and over half are over 20 years old. These facilities were not designed to operate at this level.

Finally, rates of inmate construction funds means there will be no additional capacity for female inmates. The Bureau of Prisons femal population is expected to increase 50 percent by the end of fiscal year 2008, requiring design capacity that is a critical shortage of bed space for female inmates. Since 1994, only one facility has been added to provide female capacity, and that was accomplished with the conversion of a male facility for female use.

Delaying the secure facilities for female offenders would also increase the system-wide crowding levels, since male institutions cannot be returned to housing male offenders as planned. Even if I were elected to Congress, I worked in a program called Man-to-Man down at Lorton Reformatory. This amendment would be a terrible thing to do. Had the gentleman been able to find some other money some other place, we could look at it, but to take it out of the construction of prisons, where the conditions in the prisons are miserable. In fact, I am going to be introducing a bill with a Member from your side with regard to asking for an investigation and study of prison rape. If you could see the number of men who are raped in prisons around this country, it would be a worldwide disgrace. We want people to see it so we can do something about it.

Mr. Chairman, I strongly urge my colleagues to vote against this amendment. This would be bad, and I think it would create conditions that I think, frankly, would be unfortunate for the prisons.

Mr. PASCRELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, do we want to build bigger jails, or do we want to build a better economy? No one is saying on our side that we do not need to build more Federal prisons. No one is saying that. But this administration is asking us to listen to them on the issue of trade. The gentleman from Virginia has spoken on this floor many times about displaced workers, about human rights; and I have followed the gentleman's point and been in support. If one listens to those who want to trade and open up the floodgates, because nothing like this, this trade will increase employment, which will increase productivity and end human rights abuses. It will promote democracy, we hear, democracy, and do just about everything one wants. These are all unproved theories.

We must not let the prison rape issue go. This gentleman, Mr. Wolf, suggests that we could take some money from that large pool of building prisons. There is no debate about the need, Mr. Chairman, but the question is, what about our own workers? The TAA has been a responsible agency. This gentleman has supported it, and we have all supported it, to help those people who have been displaced as we have exported our jobs all over the world, to countries that do not respect us and do not respect human rights. You do not have to go to the brink of another debate on trade, a few of those dollars, a few of those dollars, to TAA.

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

Mr. PASCRELL. I yield to the gentleman from Virginia.

Mr. WOLF. Mr. Chairman, we cannot take it out of the prisons. The conditions there, I agree, I will be with the
The gentleman tomorrow or the next day on not granting MFN or PNTR to China, but I just do not think you can take it out of the prisons. The conditions in the prisons are so difficult and so bad.

So that is the problem that I have with the amendment. We just cannot take it out of the prisons.

Mr. ASCRELLI. Mr. Chairman, re-
claiming my time, this is 10 percent. We are not talking about the prisoners, we are talking basically about con-
struction. This bill only talks about construction.

Benefit the and creating jobs, the TAA, has generated Federal and State revenues, tax revenues, at a ratio of $12 for every dollar appropriated by this Congress. It has been a bipartisan pro-
gram. We know the errors of NAFTA as well as the other trade agreements. To me, the American worker and the American working family is more im-
portant, if I have to make a priority. Now, when we have all priorities, we have no priority.

All we are asking for is a few dollars in the TAA program, which the gen-
tleman knows has worked and has been successful to help the workers in America that have been displaced by our trade agreements.

Mr.packing, our manufacturers and fabricators and dye shops all over America ask for our support. Will we turn our backs on them? We have an opportunity in this legislation with this amendment for a few dollars to help those dislocated workers. Other-
wise, we will be into the empty words of the trade debate in a few weeks, and what will we have accomplished?

The CHAIRMAN. The question is on the amendment offered by the gen-
tleman from New York (Mr. HINCHY).

The question was taken; and the Chairman announced that the noes ap-
peared to have it.

Mr. HINCHY. Mr. Chairman, I de-
mand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gen-
tleman from New York (Mr. HINCHY) will be postponed.

The Clerk will read.

The Clerk read as follows:

Of the amounts provided:
(1) for Public Safety and Community Polici-
ing Grants, $11,372,000 as follows: $707,249,000 as follows: $330,000,000 for the hiring of law enforcement officers, including school resource officers; $20,662,000 for train-
ing and technical assistance; $25,444,000 for the matching grant program for Law En-
forcement Armor Vests pursuant to section 5201 of part Y of the Omnibus Crime Control and Safe Streets Act of 1968, as amended ("the 1968 Act"); $31,315,000 to improve tribal law enforcement including equipment and training; $18,393,000 for police initiatives to combat drug trafficking and to enhance police initiatives in "drug hot spots"; and $14,435,000 for Police Corps education, training, and service under sections 200101 of the 1968 Act;
(2) for crime technology, $363,611,000 as fol-
lows: $15,000,000 for a law enforcement tech-
nology program; $35,000,000 for grants to up-
grade criminal records, as authorized under the Crime Identification Technology Act of 1998 (42 U.S.C. 14601); $40,000,000 for DNA test-
ing grants, as authorized under the DNA Bas-
ics Elimination Act of 2000 (Public Law 106– 
546); $35,000,000 for State and local DNA lab-
oratories as authorized by section 101a(a)(22) of the Crime Identification Technology Act of 1998 (42 U.S.C. 14601), of which $17,000,000 is for the National Institute of Justice for grants, contracts, and cooperative agreements to develop school safety technologies and train-
ing;
(3) for prosecution assistance, $99,780,000 as follows: $99,780,000 for a national program to reduce gun violence, and $50,000,000 for the Southwest Border Prosecutor Initiative;
(4) for grants, training, technical assist-
ance, and other expenses to support commu-
nity crime prevention efforts, $46,864,000 as follows: $14,967,000 for Project Sentry; $14,941,000 for an offender re-entry program; and $14,983,000 for a police integrity program; and
(5) not to exceed $22,994,000 for program management and administration.

JUVENILE JUSTICE PROGRAMS

For grants, contracts, cooperative agree-
ments, and other assistance authorized by the Juvenile Justice and Delinquency Pre-
vention Act of 1974, as amended ("the Act"); including salaries and expenses in connec-
thewherewith to be transferred to and merged with the appropriations for Justice Assistance, $278,000,000 shall be available until expended, as authorized by section 299 of part I of title II and section 506 of title V of the Act, as amended by Public Law 102– 
11, 1991, sub-
section (b) of section 3 of Public Law 102– 
11, 1991, subtitle (C) and $50,139,000 shall be available for expenses authorized by part B of title II of the Act, and $50,139,000 shall be available for expenses authorized by part C of title II of the Act: Provided, That $88,804,000 shall be available for expenses authorized by part B of title II of the Act, and $50,139,000 shall be available for expenses authorized by part C of title II of the Act: Provided, That $38,442,000 of the amount authorized by the Act shall be made available, and $14,934,000 for an offender re-entry program; and
(2) $10,976,000 to remain available until ex-
pended, for developing, testing, and demon-
strating programs designed to reduce drug use among juveniles.

In addition, for grants, contracts, coopera-
tive agreements, and other assistance au-
thorized by the Victims of Child Abuse Act, as amended, shall remain available until expended, as authorized by section 214(b) of the Act.

PUBLIC SAFETY OFFICERS BENEFITS

To remain available until expended, for payments authorized by section 201 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796), as amended, such sums as are necessary, as authorized by section 
1501 of Public Law 109– 80 Stat. 4339– 4340); and $2,395,000, to remain available until expended for payments as authorized by section 1201(b) of said Act.

GENERAL PROVISIONS DEPARTMENT OF JUSTICE

Sect. 101. In addition to amounts otherwise made available in this title for official recep-
tion and representation expenses, a total of not to exceed $45,000,000 from funds appropriated to the Department of Justice in this title shall be available to the Attorney General for official reception

AMENDMENT OFFERED BY MS. DEGETTE

Ms. DEGETTE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. DeGETTE.

Page 38, strike lines 18 through 24 (and making conforming changes as may be appropriate).

Ms. DeGETTE. Mr. Chairman, the amendment I am offering here tonight is very straightforward. It removes the language of the bill that prohibits the use of Federal funds for other services for women in Federal prison.

Unlike other American women who are denied Federal coverage of abortion
services, most women in prison are indigent. They have little access to outside financial help, and they earn extremely low wages in prison jobs.

They are also often incarcerated in prisons that are far away from their support systems, families and friends and, as a result, inmates in the Federal Prison System are completely dependent on the Bureau of Prisons for all their needs, including food, shelter, clothing, and all on their aspects of their medical care. These women are not able to work at jobs that would enable them to pay for medical services, including abortion services, and most of them do not have the support of families to pay for those services.

The overwhelming majority of women in Federal prisons work on the general pay scale and earn from 12 cents to 40 cents an hour, which equals roughly $5 to $16 a week. Let me repeat that. The average woman inmate in prison earns $5 to $16 per week. The average hourly outpatient outpatient abortion ranges from $200 to $400, and it goes up from there.

Even if a woman in the Federal Prison System earned the maximum wage on the general pay scale and worked 40 hours a week, she would not earn enough in 12 weeks to pay for an abortion in the first trimester if she so chose, and, of course, after that, the cost and risks of an abortion go up dramatically.

So, the woman in prison is caught in a vicious cycle. Even if she saved her entire income, every single penny, she could never afford an abortion on her own. Therefore, women in prison do not have any choice at all.

Congress’s continued denial of coverage of abortion services for Federal inmates has effectively shut down the only avenue these women have to pursue their constitutional right to choose.

Let me remind my colleagues, for the last 28 years, women in America have had a constitutional right to choose abortion as a reproductive choice. This right does not disappear when a woman walks through the prison doors. The consequence of the Federal funding ban is that inmates who have no independent financial means, which is most of them, are foreclosed from their constitutional choice of an abortion in violation of their rights under the Constitution.

With the absence of funding by the very institution prisoners depend on for the rest of their health services, many pregnant women prisoners are, in fact, forced to carry unwanted pregnancies to term. Motherhood is mandated for them.

I think it is important to point out that the anti-choice movement in Congress has denied coverage for abortion services to women in the military, a law for women who work for the government, for poor people, and for all women insured by the Federal Employees Health Benefits Plan.

I vehemently disagree with all of these restrictions. I think they are wrong, and I think they are mean-spirited. But frankly, this restriction is the worst of all, and here is why: it targets the people who have the fewest resources and the least number of options. It effectively denies these women their fundamental right to choose. It is not just coercive, it is downright inhumane.

Now, let me talk for a moment about the types of women in the Federal Prison System. Many are victims of physical and sexual abuse. That is how they got pregnant, oftentimes, Two-thirds of the women who are incarcerated are incarcerated for non-violent drug offenses. Many of them are HIV-infected, and many of them have full-blown AIDS. Congress thinks that it is in our country’s best interest to force motherhood on these women? It is simply not our place to make this decision.

Mr. Chairman, what will happen to these children? What will happen to the children of mothers who have unwanted babies in prison? Frankly, I think this is the worst kind of government intrusion into the most personal of decisions. I wholeheartedly support the right of women in prison to bring their pregnancy to term if they so choose. They, not me, not anyone here, should make that decision for them.

I want to make it perfectly clear what this amendment is really about. It is not about how many women against their will, to bear a child in prison, when that child will be shortly taken away from them at birth, and then, to have that child raised. It knows where. It is cruel and it is unfair to force them to go through this pregnancy and, therefore, I urge my colleagues to vote for the DeGette amendment.

Mr. WOLF. Mr. Chairman, in opposition to the gentleman’s amendment?

The provision in the bill the amendment seeks to strike does only one thing: it prohibits Federal tax dollars from paying for abortions for Federal prison inmates, except in the case of rape or the life of the mother.

This is a very longstanding provision, one that has been carried in 12 of the last 13 Commerce, State, Justice, and Judiciary appropriation bills. The House has consistently, year after year, rejected this amendment. Last year, this very amendment was rejected by a vote of 254 to 156. Time and again the Congress has debated this issue of whether Federal tax dollars should be used for abortion, and the answer has been no.

Mr. Chairman, I urge the rejection of the gentleman’s amendment.

Mrs. MALONEY of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the DeGette amendment. In recent years, a woman’s access to abortion has been restricted bill by bill, vote by vote. The DeGette amendment seeks to correct one of these unjust restrictions.

Women in Federal prisons should not be made to check all of their rights at the door. Women have a constitutional right to choose, which should not be denied even if they get incarcerated.

Facing an unintended pregnancy is a tough situation for any woman, but a woman in prison is faced with very few choices. These women have very limited prenatal care. Some women in prison will choose to carry the pregnancy to term, and I support this choice. But without the right to choose, their only option is to go through childbirth while incarcerated, and then to give their child up.

Mr. Chairman, I urge my colleagues to support this amendment which removes the ban on the use of Federal funds for abortion services for women in Federal prisons. These women have little access to health care or even family assistance and earn extremely low wages from prison jobs. Women in prison deserve the same choices they would receive for any other medical condition. We need equal access to reproductive care. The ban on abortion assistance denies them of their constitutional rights. Women in prison must not be denied their right to choose when these prisoners cannot guarantee a safe delivery or treatment while pregnant. The right to choose is meaningless without the access to choose.

Mr. Chairman, I urge a “yes” vote on the DeGette amendment.

Ms. WOOLSEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the DeGette amendment.

For women in prison, this amendment projects their constitutional right to reproductive services, including abortion. Without this amendment, women in prison are denied the right to health care benefits that every other woman has available to them. We are not saying women in prison cannot choose to have a child, we are simply saying they have a right to choose not to have a child.

Once again, the anti-choice movement is targeting their efforts on women who have limited options. Most women in prison have few resources and little outside support. Denying abortion coverage to women in Federal prisons is just another direct assault on the right of all women to have reproductive choice.

Mr. Chairman, it is time to honor the Supreme Court decision in Roe v. Wade and acknowledge that every woman has a right to have access to safe, reliable abortion services. We must stop piecemeal state attacks on women’s reproductive freedom and we must provide the education and the resources needed to prevent unwanted pregnancies. 

Mr. Chairman, I ask my colleagues, vote for the DeGette amendment and
It is my belief that freedom of access must be unconditionally kept intact. Therefore, I strongly urge my colleagues to protect this constitutional right for women in America and vote ‘yes’ on the DeGette amendment. Mr. NADELER. Mr. Chairman, I rise to support the DeGette Amendment to strike the ban on abortion funding for women in federal prison. This ban is cruel, unnecessary, and unwarranted.

Mr. Chairman, a woman’s sentence should not include forcing her to carry a pregnancy to term. Most women in prison are poor, have little or no access to outside financial help, and earn extremely low wages from prison jobs. Inmates in general work 40 hours a week and earn between 12 to 40 cents per hour. They totally depend on the health services they receive from their institutions. Most female prisoners are unable to finance their own abortions, and, therefore, are in effect denied their constitutional right to an abortion.

Earning the maximum rate of wages, a female prisoner would need to work 40 hours a week for 12 and 1/2 weeks just to be able to afford the lowest cost of a first trimester abortion ($200), but by that time she is no longer in the first trimester and, therefore, the cost of the abortion would be higher. So she would need to work even more to pay for the higher cost and, therefore, is not even able to do abortion. However, even if she were to work for that amount of time she would never make enough money in prison to pay for a timely, safe abortion even if she saves every penny she earns from the moment of conception. Why? Because the cost of later and later term abortions (from $200 to $7000) are much higher and her ability to earn money. So the legislation essentially bans abortion services for women in prison.

Remember, many women prisoners are victims of physical or sexual abuse and are pregnant before entering prison. An unwanted pregnancy is a difficult issue in every supportive environment. However, limited prenatal care, isolation from family and friends and the certainty of loss of the infant upon birth present circumstances which only serve to worsen an already dire situation. In 1993, Congress lifted the funding restrictions that since 1987 had prohibited the use of federal funds to provide abortion services to women in federal prisons except during instances of rape and life endangerment. Women who seek abortions in prison must receive pre and post medical counseling sessions for women seeking abortion. There must be written documentation of these counseling sessions, and any staff member who morally or religiously objects to abortion need not participate in the prisoner’s decision making process. There was a 75 percent growth in the number of women in Federal prisons over the last decade. Currently, the growth rate for women is twice that of men in prison. Yet, the rate of infection for HIV and AIDS in women exceeds the rate of infection for men in prison, and pregnant women are of course at risk of passing on this disease to their unborn children. This ban on federal funds for women in prison is another direct assault on the right to choose. This ban is just one more step in the long line of rollbacks on women’s reproductive freedom. We must stop this assault on reproductive rights.

Mr. Chairman. The question is on the amendment offered by the gentlewoman from Colorado (Ms. DEGETTE). The question was taken; and the Chairman announced that the ayes appeared to have it.

Ms. DEGETTE. Mr. Chairman, I demand a recorded vote.
The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Colorado (Ms. DEGETTE) will be postponed.

Mr. OBEY. Mr. Chairman, I move to strike from the record the amendment offered by the gentlewoman from Colorado.

The vote was taken by electronic device, and there were—aye 187, noes 227, not voting 19, as follows: [Roll No. 233]
NOT VOTING—19

Annunciator by the Chairman

The CHAIRMAN. Pursuant to clause 6 of rule X, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on each amendment on which the Chair has postponed further proceedings.

Amendment No. 2 Offered by Mr. Hinchey

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by Mr. Hinchey (New York), on which further proceedings were postponed, and the noes prevail by voice vote.

The Clerk will redesignate the amendment. The Clerk redesignated the amendment.

Recorded Vote

The CHAIRMAN. A recorded vote has been demanded. A recorded vote was ordered. The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 172, noes 244, not voting 17, as follows:

AYES—172

Mr. KIRK made his motion from “aye” to “no.”

MESSRS. ENGLISH, BECERRA, HULSHOF and BACA changed their vote from “no” to “aye.”

So the amendment was rejected.

Mr. ARMYE. Mr. Chairman, I thank the gentleman for yielding. I would just like to emphasize two things: as the gentleman from Florida indicated, if Members want to have their amendments considered, those amendments need to be filed tonight. If Members want to have their amendments to the Clerk, then the Clerk will see it that they are printed. But Members need to know that if they want consideration of amendments, they need to be filed tonight.

I would also ask another favor of Members. We, on several occasions now, have had the bill read past the point where Members were eligible to offer their amendments. If Members have amendments that they intend to have offered, they need to be on the floor when we reach that point. If Members now, have had the bill read past the point where Members were eligible to offer their amendments, they need to be filed tonight. If Members want consideration of amendments, those amendments need to be filed tonight. If Members have amendments that they intend to have offered, they need to be on the floor when we reach that point. If Members now, have had the bill read past the point where Members were eligible to offer their amendments, they need to be filed tonight.

We will, as the gentleman indicates, try to take all the amendments that we know of and put them in reasonable order with a reasonable time limit. We need the cooperation of every Member to do that.

Mr. ARMYE. Mr. Chairman, if I could just make one final comment. The program is clearly announced. All Members who will have amendments can expedite the proceedings on the remainder of this bill if they will work with the chairman and the ranking member to work out those time arrangements. I am confident that we will have a productive and happy conclusion of this bill tomorrow evening. I thank the Members for their time.

AMENDMENT OFFERED BY MS. DEGETTE

The CHAIRMAN. The pending business is the demand for a recorded vote by the gentleman from Florida, Mr. Young.

Mr. YOUNG of Florida, Mr. Chairman, I thank the gentleman for yielding.

I would remind Members that the gentleman from Wisconsin (Mr. O’BEY) and I have both made an announcement that was followed up by a unanimous-consent agreement that the only amendments to be considered further in this bill tomorrow are ones that will have been printed up to and including today. By the time we get to the consideration of this bill again tomorrow, hopefully soon rather than later, we expect to have a unanimous-consent proposal to offer that would place realistic time limits on those amendments and hopefully expedite our business so that we can leave at a reasonable hour tomorrow evening.

That pretty much sums up where we are on the schedule. A lot of it will depend on unanimous consent agreement that we will propound tomorrow.

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

Mr. ARMYE. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I thank the gentleman for yielding. I would just like to emphasize two things: as the gentleman from Florida indicated, if Members want to have their amendments considered, those amendments need to be filed tonight. If Members want to have their amendments to the Clerk, then the Clerk will see it that they are printed. But Members need to know that if they want consideration of amendments, they need to be filed tonight.

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AMENDMENT OFFERED BY MS. DEGETTE

The CHAIRMAN. The pending business is the demand for a recorded vote by the gentleman from Colorado (Ms. DeGETTE) on which further proceedings were postponed and on which the noes prevailed on the previous vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.
IN HONOR OF MAISIE DEVORE AND THE PEOPLE OF ESKRIDGE, KANSAS

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

Mr. MORAN of Kansas. Mr. Speaker, I rise this evening in honor of one of my constituents, Maisie DeVore, of Eskridge, Kansas. Her story, that I want to describe here in a few moments, demonstrates what one determined person can do to make a difference in the lives of others and in the life of her community.

Maisie DeVore is 82 years old. Thirty years ago, Maisie decided that her community of Eskridge, population 530, needed a swimming pool. And she set about raising the funds to build one.

Over the course of 3 decades, Maisie earned a few dollars at a time by collecting aluminum cans, selling homemade jelly, and auctioning off her homemade afghans. Over the years, Maisie earned $50,000, which, coupled with a $73,000 grant from the State of Kansas, provided the funds necessary to make her vision a reality.

The Eskridge Community Pool officially opened this past Saturday, July 14, 2001. Maisie was telling me this past Saturday that when she started this project, her kids were 7 and 12. They are now adults living in another community; but, still, the pool was opened.

Fittingly, Maisie was the first person in the pool. She was soon followed by about 50 of the younger residents of Eskridge. She was fortunate to be in Eskridge to share this city-wide celebration that was declared Maisie DeVore Day.

At the completion of her many years of work, Maisie’s accomplishment has drawn the attention of State and national media and will be featured this Sunday on the CBS Sunday Morning Show.

Maisie’s commitment to the welfare of her community and neighbors is a great example of service and leadership. More than the accomplishment of a personal goal, Maisie’s success is a unifying force in her community. Her story demonstrates that one individual, one individual, can bring a community together and truly make a difference in the lives of others.

EXPLAINING THE DANGERS OF FAST TRACK TRADE PROPOSALS

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

Mr. BONIOR. Mr. Speaker, I rise this evening first of all to thank my colleagues, the gentleman from Ohio (Mr. BROWN), for arranging a discussion this evening on the important issue of trade, especially the fast track procedure that is making its way through this community. It is essential for the American people to truly understand what this fast track trade proposal is all about and how damaging it can be to each and every one of our individual lives.

Now, the procedure that is known as fast track puts our trade laws and everything that is associated with them on a rush course through Congress. It limits the time we can spend on important issues that deal with food safety, workers rights, environmental protection, and worker laws and worker protections. It allows only an up-or-down vote, and no amendments, on huge trade bills, like the GATT bill in 1995 and the NAFTA bill in 1993. It leaves Congress with little power to stop the bad parts of trade legislation from becoming law.

I would remind my colleagues, Mr. Speaker, that this whole idea of fast track is something that is relatively new. It was only in 1974 when Richard Nixon first proposed it. It has only been used five times. In fact, during the last administration, the Clinton administration, we did 200 trade deals around the world successfully without fast track.

This is a huge usurpation of the authority given to the United States House of Representatives and the Congress by the Constitution of the United States. By doing so, it not only threatens the work that we do here on behalf of the American people on food safety, on labor law, on the environment and all kinds of other important issues; but it also affects what happens to the activity at the local level, in the village, in the township or the community. Those laws are in jeopardy as well.

Now, let me say this, Mr. Speaker: we have worked very hard over the last 100 years in this country to put into law these protections. There was a time that we did not have food safety laws. Upton Sinclair wrote the wonderful novel called “The Jungle,” and it alerted the American people to what was happening in food safety and food spoilage. There was a movement called the Progressive movement, and a lot of things flowed from that.

The labor movement flowed at the beginning of the century, so people
could have workmen’s comp, unemployment comp, good pay, pensions and overtime protection and all of those things we have in law today.

All of that is at risk with these trade laws. If we continue on the path that we have been on, we are spiraling down to the least common denominator in our law. We are going into the valley where countries who have no protections for their workers simply live today.

When we fail to meet these standards, workers in Bangladesh remain in sweatshops. When we fail to meet these standards of worker safety and the environment, children in the Ivory Coast are forced into slave labor. At home, workers lose their jobs because companies relocate to areas with fewer safety and environmental standards.

We have seen the great exodus out of many of our communities. Manufacturing concerns get up and go. They do not want to pay the $12 an hour, the $14 an hour. They go down to Mexico where they pay less than $1 an hour.

They manufacture and assemble what they have to, ship it right back across the border, often on trucks that are not safe, moving through our country, with no protection for the Mexican workers down there. So the Mexican worker loses, our worker loses. The only people that profit are basically the wealthy multinational corporations and the CEOs, particularly at the top of those corporations.

Mr. Speaker, merely cannot afford the negative consequences that come along with bad trade deals. Too much is at stake. I would just urge my colleagues tonight, as we proceed on this debate on fast track, to be very careful and very thoughtful in how we approach it.

This is a very important issue for the future of this country and for the future of our children. We need to have environmental safety laws into all of our trade and we need to also make sure we have worker rights embodied in the core agreements of our trade deals so that our workers are not punished here at home and the workers abroad in and developing countries as well have a chance to earn a decent wage so that they can buy the products that they are making.

SUPPORT EMBRYONIC STEM CELL RESEARCH

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

Mr. RASMSTAD. Mr. Speaker, Della Mae is a wonderful, loving, 79-year-old woman totally debilitated by Alzheimer’s disease. Joey was a promising young man in his early 20s who died a horrible death; a cruel, tragic death from diabetes.

Mr. Speaker, Della Mae is my mother. Joey was my first cousin. On behalf of my beloved mother and my first cousin, I plead with the President and the Congress to accept the NIH report on the medical value of embryonic stem cell research and to not block Federal funding for this promising, life-saving research; on behalf of not only my first cousin, but 100 million other Americans suffering from Parkinson’s Disease, Alzheimer’s disease, diabetes, juvenile diabetes, multiple sclerosis, as well as spinal cord injuries resulting in paralysis.

Mr. Speaker, I have watched several close friends devastated by Parkinson’s Disease and spinal cord injuries, conditions that could also be aided by embryonic stem cell research. Who amongst us, who amongst us has not been profoundly moved by the sight of former President Ronald Reagan, that giant of a man, now reduced to a mere shadow of his former self by Alzheimer’s disease.

Mr. Speaker, the scientific evidence is overwhelming that stem cells collected from surplus embryos have great potential to regenerate specific types of human tissues and offer hope for millions of Americans devastated by these and other cruel, fatal diseases. According to research doctors I have talked to at the Mayo Clinic as well as NIH, a vaccine to prevent the onset of Alzheimer’s is less than 5 years away, thanks in large part to stem cell research.

Yes, Mr. Speaker, using surplus embryos from in-vitro fertilization that would otherwise be discarded has the potential to save lives and prevent terrible human suffering. Members and the President need to listen to respected colleagues like Senators Orrin Hatch and Connie Mack, as well as Secretary Tommy Thompson, when they tell us this is not an abortion issue.

The President and Members need to be clear, Mr. Speaker, that abortion politics should not enter into this decision and certainly should not influence this critical decision.

Embryonic stem cell research, in fact, will prolong life, will improve life, and give hope of life for millions of American people suffering the ravages of Alzheimer’s, Parkinson’s, diabetes, and multiple sclerosis, not to mention spinal cord paralysis.

So, Mr. Speaker, on behalf of millions of Americans with debilitating, incurable diseases I respectfully urge the President and the Congress to approve crucial Federal funding for this life-saving medical research. In approving such funding, Mr. Speaker, we can also adopt the same model of accountability and oversight that is used in fetal tissue transplantation research which allows the best possible science to progress.

Mr. Speaker, it is too late for my dear mother and my decreased cousin, but it is not too late for 100 million other American people counting on the President and the Congress to give them hope. Let us give them hope. Let us give them life. Let us support funding for life-saving and life-extending embryonic stem cell research. It is clearly, clearly the right thing to do.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Ms. JACKSON LEE) is recognized for 5 minutes.

Ms. JACKSON LEE of Texas addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.

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

Mr. PAUL addressed the House. His remarks will appear hereafter in the Extensions of Remarks.

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

Mr. LANGEVIN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.

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

Mr. TANCREDO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.

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

Mr. BROWN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.

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

Mr. BUYER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.

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

Mr. PALLONE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.

THOUGHTS ON THE U.S. FLAG AND A CONSTITUTIONAL AMENDMENT

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

Mr. DUNCAN. Mr. Speaker, I was unable to come over today for the discussion of the flag amendment because of a meeting with some of my constituents and because of an important markup in the Committee on Resources. However, I would like to tell my colleagues and
Hymn of the Republic, of cloth.
whole lot more than just a simple piece
in this country, and that this flag is a
what this flag means to so many people
small way, this lady has explained
ual.
ecentric,
always thought this exercise sweetly
observed a moment of silence, then
ican flag on the pole outside his house,
was able, my father raised the Amer-

family and me with a noble conclusion
s life. I began to realize

and became an old man once more,
gave the brisk salute of the spirited
young GI that he must have been 55

s life. I began to realize

s grave site under a

Newsweek Magazine by a woman
others about an article or a column
that was written in the July 9 issue of
Newsw rek by keeping government fund-
ing and regulations out of our churches
for over 200 years.
Mr. Speaker, America has become
the envy of the world when it comes to
religious freedom, tolerance, and vital-
ity. I challenge the proponents of this
bill to show me tomorrow one nation in
the world, one nation where govern-
ment-funding of churches has resulted
in more religious liberty or tolerance
or vitality than right here in the
United States. All of human history
proves that government involvement in
religion harms religion, not helps it.

Our Founding Fathers understood
that fact, and today’s world proves
that fact. Just look around. In China,
citizens are in prison for their religious
beliefs. In the Middle East, religious
differences have perpetrated conflict
and death. In Afghanistan, religious
minorities are being branded with
Nazi-like tactics. In Europe, govern-
ment-funding of churches has led to
low church attendance.

As a person of faith, I thank God that
our Founding Fathers understood
that religious liberty is best preserved by
keeping government funding and regu-
lations out of our churches.

To my conservative colleagues, and
to those across this country, I would
suggest that they should be the first to
favor the government regulation of reli-
gion that would inevitably result from
billions of taxpayer dollars going di-
rectly to our churches and houses of
worship.

Surely it was one significant reason
why over 1,000 religious leaders, from
Baptists to Jews to Methodists, have
signed petitions opposing H.R. 7. These
people of faith understand that direct
Federal funding of our churches would
not only be unconstitutional, it would
be contrary to the very principles that
underlie our faith-based initiative.

The question before the House is
not whether faith is a powerful force; it is.
The question is not whether faith-
based groups do good works; they do.
The question is not even whether gov-
ernment can assist faith-based groups
in their social services; it is right to give
our churches and houses of worship
the same status that is accorded to all
other non-profit organizations.

Rather, the vote on this bill boils
down to two fundamental questions.
First, do we want American citizens’
tax dollars directly funding churches
and houses of worship, as this bill does;
and second, is it right to discriminate
in job hiring when using Federal dol-
ars.

I would suggest the answer to both of
those questions is no, emphatically so.
The question of using tax dollars to
fund churches is not a new one. It was
debated at length by our Founding Fa-
thers over two centuries ago. They not
only said no to that idea; they felt so
strongly about it that they embedded the
principle of church-State separation
into the first 16 words of the Bill of
Rights by keeping government fund-
ing and regulations out of our churches
for over 200 years.

To those across this country, I would
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gion that would inevitably result from
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rectly to our churches and houses of
worship.
No American citizen, not one, should have to pass anyone else’s religious test in order to qualify for a federally-funded tax-supported job.

Under H.R. 7, a church associated with Bob Jones University could put out a sign—Paid for by taxpayers. No Catholics need apply here for a federally-funded job.” That is wrong.

Under H.R. 7, federally-funded jobs could be denied to otherwise qualified workers simply because of their personal faith being different from that of their employers. That is wrong.

Under H.R. 7, churches that believe women should not work which use Federal dollars could put out a sign saying, “No women need apply here for a federally-funded job.” That is wrong.

Mr. Speaker, we all understand why churches, synagogues, and mosques could hire people for their own religious faith with their own private dollars. But it is altogether different, altogether different as night to day to treat tax dollars to be used to subsidize job discrimination for secular jobs.

There is also something ironic about a bill that is supposedly designed to stop religious discrimination but actually ends up not only allowing but subsidizing religious discrimination.

Mr. Speaker, this is also a bill built on a false foundation, the premise that not sending tax dollars to our churches and houses of worship is somehow discrimination against religion.

Nothing could be further from the truth. In the Bill of Rights, our Founding Fathers wisely built this sacred wall of separation to protect religion from government and politicians. This bill would obliterate that wall and ultimately put at risk our religious liberty, the crown jewel of America’s experiment in democracy.

To Members who genuinely want to help religious charities do good work, I would say that present law already allows Federal funding of faith-based groups if they agree not to proselytize with those Federal dollars or to discriminate with Federal funds. This bill is thus a solution in search of a problem.

Should we have Federal funding of our churches? The answer is no. Should we discriminate in job hiring based on religion when using Federal dollars? The answer is no.

And if Members’ answers to these two questions is no as well, they should vote no on H.R. 7. Protecting our churches from government regulation and our citizens from religious discrimination are fundamental principles. They deserve our support today, tomorrow, and every day.

By voting no on H.R. 7, we in this House can defend the principles embedded in the Bill of Rights that have protected our religious freedom so magnificently well for over two centuries.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE FOR H.R. 2356, THE BIPARTISAN CAMPAIGN REFORM ACT OF 2001

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

Mr. NEY. Mr. Speaker, House Rule XII (3(c)(2)) requires that a cost estimate prepared by the Congressional Budget Office be filed with a committee report. When the committee report for H.R. 2356 was filed, this cost estimate was not yet available.

Attached for inclusion in the RECORD is the completed cost estimate.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,

Hon. Robert W. Ney,
Chairman, Committee on House Administration,
Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2356, the Bipartisan Campaign Reform Act of 2001.

If you wish further details on this estimate, we will be pleased to provide them.

The CBO staff contacts are Mark Grabowicz (for federal costs) and Paige Piper/Bach (for the private-sector impact).

Sincerely,

BARRY B. ANDERSON,
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE H.R. 2356—Bipartisan Campaign Reform Act of 2001

Summary: H.R. 2356 would make numerous amendments to the Federal Election Campaign Act of 1971. In particular, the bill would:

- Raise the amounts that individuals can contribute to federal campaign each year;
- Prohibit national committees of political parties from soliciting, receiving, directing, transferring, or spending so-called “soft money”;
- Require numerous additional filings and disclosures by political committees with the Federal Election Commission (FEC) for certain contributions;
- Strengthen the prohibition on foreign contributions to federal campaigns, and increase fines for violations of election laws.

Direct the General Accounting Office (GAO) to conduct a study of recently publicly financed campaigns in Arizona and Maine; and

Restrict the advertising rates charged by television broadcasters to candidates for public office.

CBO estimates that implementing H.R. 2356 would cost about $5 million in fiscal year 2002 and about $3 million a year thereafter, subject to appropriation of the necessary funds. Those amounts include administrative and compliance costs for the FEC, as well as costs for GAO to prepare the required report.

Enacting the bill also could increase collections of fines, but CBO estimates that any increase would not be significant. Because the bill would affect direct spending and receipts, pay-as-you-go procedures would apply.

H.R. 2356 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

H.R. 2356 would impose several private-sector mandates as defined in UMRA. CBO estimates that the direct costs to the private sector of complying with those mandates would exceed the annual statutory threshold in UMRA ($113 million in 2001, adjusted annually for inflation) primarily as a result of new mandates on national political party committees and television, cable, and satellite broadcasters. Moreover, CBO estimates that they would affect direct spending and receipts and would exceed $300 million in a Presidential election year.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2356 is shown in table 1. The costs of this legislation fall within budget function 800 (general government).

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| Basis of Estimate: Based on information from the FEC, CBO estimates that the agency would spend about $2 million in fiscal year 2002 to reconfigure its information systems to handle the increased workload from accepting and processing more reports, to write new regulations implementing the bill’s provisions, and to print and mail information to candidates and election committees about the new requirements.

In addition, the FEC would need to ensure compliance with the bill’s provisions and investigate possible violations. CBO estimates that conducting these compliance activities would cost $2 million to $3 million a year, mainly for additional enforcement and litigation staff.

CBO estimates it would cost GAO less than $500,000 in fiscal year 2002 to complete the report required by the bill.

Enacting H.R. 2356 could increase collections of fines for violations of campaign finance law. CBO estimates that any additional collections would be significant. Civil fines are classified as governmental receipts (revenues). Criminal fines are recorded.
as receipts and deposited in the Crime victims Fund, then later spent.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act imposes pay-as-you-go procedures for legislation affecting direct spending and receipts. These procedures would apply to H.R. 2356. The bill would affect both direct spending and receipts, but CBO estimates that the annual amount of such changes would not be significant.

Estimated impact on state, local, and tribal governments: H.R. 2356 contains no intergovernmental mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimated impact on the private sector: H.R. 2356 would make changes to federal campaign finance laws that govern activities in elections for federal office. The bill would amend the Federal Election Campaign Act of 1971 by revising current-law restrictions on contributions and expenditures in federal elections. H.R. 2356 would impose mandates on many private-sector entities, including: national party committees, state and local party committees, candidates for federal office, federal officeholders, television, cable and satellite broadcasters, persons who pay for election-related communications, labor unions, corporations, and political parties; and prohibit some of the losses resulting from the soft-money contributions by individuals and thus offset existing mandates by allowing higher contributions to federal office, federal officeholders, television, cable and satellite broadcasters, persons who pay for election-related communications, labor unions, corporations, and political parties; and prohibiting certain campaign-related communications as an election-related contribution or expenditure.

The direct costs associated with additional reporting requirements would not be significant. In general, most entities involved in federal elections must submit reports to the FEC and other federal agencies. The primary mandates in H.R. 2356 would be noncompeteable for candidates (with rates based on comparison to prior 180 days) and requiring the rates to be available to national party committees. The bill would also require broadcasters to maintain records of requests of broadcast time purchases. Based on the latest figures from the National Association of Broadcasters and the FCC, affected political advertising would bring in revenues of $400 million to $500 million in Presidential election years and $200 million to $250 million in other election years. CBO does not have enough information to accurately estimate the effects of the requirements in the bill on those revenues. Based on those figures, however, CBO concludes that such losses could exceed $100 million in a Presidential election year.

H.R. 2356 would also impose private-sector mandates in several additional areas. These areas include: restricting the use of soft money by candidates and state political parties; and prohibiting certain political advertising. The direct costs associated with additional reporting requirements would not be significant. In general, most entities involved in federal elections must submit reports to the FEC under current law. New requirements in H.R. 2356 also would impose some costs for individuals and organizations who pay for certain election-related communications associated directly and indirectly with federal elections. Finally, mandates that restrict the ability of organizations to make certain contributions or expenditures would impose additional administrative costs.

Previous estimate: On July 9, 2001, CBO transmitted a cost estimate for H.R. 2360, the Campaign Finance Reform and Grassroots Citizen Participation Act of 2001, as ordered reported by the Committee on House Administration on June 28, 2001. That bill contained some of the provisions in H.R. 2356 and CBO estimated that it would cost the government $55 million annually, subject to the availability of appropriated funds. Neither bill contains intergovernmental mandates.

Both bills would impose private-sector mandates by placing new restrictions on contributions and expenditures related to federal elections. The mandates in H.R. 2360 would not impose costs above the statutory threshold. The primary mandate in H.R. 2360 would limit the use of soft-money contributions in certain federal election activities. The primary mandates in H.R. 2356 would impose costs above the threshold by banning the use of soft money for national committee contributions in Presidential election years. Thus, such savings would only partially offset the losses from the ban on soft-money contributions.

Additional mandates in H.R. 2356 would impose costs on television, cable, and satellite broadcasters by requiring the rules that apply to broadcast rates for political advertisements. Estimates prepared by: Federal costs: Paige Piper, impact on State, local and tribal governments: Mark Grabowicz, impact on the private sector: Paige Piper/Bach.

THE UNIQUE QUALITIES OF THE AMERICAN WEST

The SPEAKER pro tempore. Under the Speaker’s announced policy of January 3, 2001, the gentleman from Colorado (Mr. McNINNIS) is recognized for 60 minutes as the designee of the majority leader.

Mr. McNINNIS. Mr. Speaker, I come before my colleagues this evening to discuss one of my favorite topics, of course, the American West. I plan to spend the next few minutes talking about the differences between the western United States and the eastern United States.

I had a wonderful experience last weekend. I was in Buena Vista, which in Spanish stands for “good view,” Buena Vista, Colorado. I am a couple of friends and my wife, Laurie, we went to Buena Vista for one purpose: We wanted to hear a singer, somebody who I had known, a person of great character, a gentleman named Michael Martin Murphy.

This is an individual who is not only able to sing in such a way that it warms your heart, but also has the very canny ability of passing on and communicating through his music the values of the American West. Not only can Michael Martin Murphy communicate about the values of the American West, he also communicates about the need and the necessity of character, of real character; of the standards that we as Americans ought to live up to.

When we went to Buena Vista and we heard some of the discussions, we had an opportunity not only to listen to the music of Michael Martin Murphy, who I pay tribute to today; not only to meet his good friend, Karen Richie, but also to listen to some of the background and some of the values and the future that people like Gene Autry, Roy Rogers, and Marty Robbins saw about the American West.

I can say that Michael Martin Murphy in my opinion rises to the level of those legends, the legends of Marty Robbins, the legend of Gene Autry, the legend of Roy Rogers; that he rises to their level, because in my opinion he is able to communicate the message that those people did for their generation, and I think that Michael Martin Murphy is that for this generation. I think his music will carry that message to future generations.
It was a wonderful experience. We were up on the mountain plain, Chalk Mountain right in the distance, of course among 14,000-plus foot peaks. The wind was blowing slightly, the sun was going down, not until about 9 o’clock. It was cool. The mountains can get awful cold this time of year; not like winter, obviously, but very, very cool.

It was just the perfect setting. It was the perfect setting to let one’s mind rest on the past and to go back in history and remember the values upon which this great Nation was built, upon the individual characters that stepped forward to settle the West, to stand strong for the West, to make sure that the wrongs were righted, because we know there were wrongs that were committed in the acquisition of the West.

It is interesting, when we look back in history, our history professors tell us, Mr. Speaker, that history often repeats itself and that if we look upon the strong values of this country, the foundation that made this country the greatest country known in the history of the world, when we look back we see certain characteristics that I think have been represented in music, at least in the West, by the legends of the Gene Autry’s, the Marty Robbins, and Roy Rogers, and in my opinion, Michael Martin Murphy.

I intend here in the next few days to issue a tribute for Michael Martin Murphy, because I think it is so important for the generation, for our generation, the obligation of our generation to pass on to the next generation what life in the American West really is about; how wonderful it is and how important it is to preserve that independence, that love of nature, that mountain area way of life.

There are several ways we can do it. Of course, we can put it in history books and it is in our cases. Those are all important. But it seems to me one of the most effective ways to pass the message from one generation to the next generation is through music. Michael Martin Murphy does exactly that.

I was not enthralled, so do not get me wrong, I was not starstruck by Michael Martin Murphy. I was impressed, because I felt that I had met an entertainer who was much more than an entertainer. He actually cared about the American West, an individual who understood the land values and the need for open space and the beauty of the Rocky Mountains, yet firmly believed that people had a right to live in those areas; that people have a right to enjoy that.

In Michael Martin Murphy I saw not a superstar, but I saw a star kind of different than like a Hollywood set. What I saw was a superstar in character, a person who spoke about the characters that are necessary for our new generations; about the obligations we have, the obligations that were fulfilled by previous generations.

We live in a great country, wherever one lives in this country. I just happen to have a prejudice towards the mountains, whether it is in Virginia or in the Missouri flats or up in Montana, up in those areas, Idaho, Jackson Hole, Wyoming, and of course my district, the West, there are hundreds, which is essentially the mountains of Colorado, whether one is in Durango, Buena Vista, Walsenburg, Steamboat Springs, Meeker, Colorado, Glenwood Springs, Beaver Creek, all of these communities.

What is important is that there are a lot of generations that have come ahead of us, including multiple generations on my side of the family and multiple generations on my wife’s side of the family.

It is a way of life. It is a way of life that I think we can preserve. It is a way of life that we should not allow the elitists to come out and destroy. It is a way of life of those people who care about the land in the mountains, or come out to the West and buy land, whether it is in the prairie or in the mountains. It is a responsibility that kind of runs with the land. It does not disappear from one owner to the next owner. I believe that we should go with everybody who touches the land. It runs with the land, and it should run with the land for all future generations.

A part of getting that message out is through the music of the likes of Michael Martin Murphy. So for that, I intend to issue a tribute, because I consider him in that bracket, having met that standard of a legend, not just for the music, which by the way is beautiful, whether it is Wildfire, or his rendition of the Yellow Rose of Texas, or I could go through a number of different songs; but most importantly, what Michael Martin Murphy says and what he practices and what he encourages other people to do in regard to the preservation of the American West.

Let me point out some differences in why life in the West requires some special attention, why it really does. I am not trying to preach to my colleagues this evening, but I am trying to say that out in the West we have a unique situation. It is not found in the East, or very rarely in the East. It is unique to the West. We have to have a good understanding of it if we really want to comprehend the challenges that we face out West.

It all started years ago with the founding of this country. As we all know, the country was not founded on the East Coast. We know that the Government wanted them to move to the West. Now remember, to the West could be simply getting them out to Missouri. Somehow we have got to get the American people out into this new land that we wanted to expand into, the United States of America. So they tried to figure out ways and incentives for the American people to move west. Interestingly, they came up with an idea. In 1776, what the Government did, and this is very interesting, by the way, for those who are history buffs, in 1776, the Continental Army decided, hey, let us offer free land to people. Let us allow, in effect, homesteads to soldiers that will defect from the British Army. If they are defectors, we will re-habilitate them in our new country with free land.

Well, years later, as our expansion began to take place, and remember our expansion was delayed somewhat because of the ongoing battles between the North and the South, The North and the South, neither one of them wanted to have the other get an advantage over this new land, an advantage that would allow slavery or an advantage that would not allow slavery. So they tried to push the expansion and the settlement of these lands was somewhat delayed. But when they got finally to a position where the Government could really encourage it and take it as a serious effort to go out and settle the American West, they decided that the incentive should be to give away land, and they called it homesteading.

Again, that idea originated in 1776. Now, maybe if there is a history professor amongst my colleagues, they may have a date preceding that, but my understanding is that the defecions from the British Army.

So now we speed up again back here where we are possessing the country.

July 17, 2001

CONGRESSIONAL RECORD—HOUSE H4105
How do we get people out there? So we decide to homestead. They offer people to go out into Missouri, into Tennessee, out west to Kansas and to Colorado. Go out there and farm, set up their families, and be given 160 acres. If they would go out there and work it for a fee of $12 a year, a closing fee of $5, they could have this land, 160 acres.

And every American, even today, every American dreams of owning their own piece of land. That is one of the beauties of the United States of America, one of the things that sets our country apart from other nations throughout the entire world is the right of private property. It is deep in our heart. It is deep in our heart to own a piece of property. So the Government encouraged families to go out west and be given ownership to 160 acres. They had to go out and work it. They need to put their family on it. The Government wanted it to be farmed, to be productive land. And if a family would make it productive land, if they were dedicated to the cause, meaning that they persevered through all the tough conditions, after a period of time, a few years, they got to own that land free and clear.

However, there was a problem; and the problem is clearly demonstrated by this map that I have to my left, and that was that the frontiersmen, and I say that generically, because clearly it was families that took on this challenge of being productive but families. And back then the conditions were harsh. Think of women in childbirth, the death rate of women in childbirth. It was horrible. The sacrifices were enormous that these people made to expand our country and in part to go out and find the American Dream.

But as I said, there was a problem; and it is demonstrated by this map. Take a look at this map very carefully. The Government wanted it to be public lands, but families. And back then the conditions were harsh. Think of women in childbirth, the death rate of women in childbirth. It was horrible. The sacrifices were enormous that these people made to expand our country and in part to go out and find the American Dream.

Now, my colleagues might say, well, gosh, there are hardly any government lands in some of these States. And the lands that we have is like a little garden. We have a little garden, what we call public lands, are in the East. They are not in the West. Why? Why would be a logical question to go out and find the American Dream.

So as of late, some of the more radical environmental groups in our country have decided that the Government, what they want to do is go to the populations, and remember most of the populations, when we look at this map to my left, west of the populations, with the exception right here, when we see the private property, the big white section here in California, that big white section, and the East, that is where the population in the country is. So the Government, nations, anything that is sparsely populated land. So what has happened is some of the more radical environmental organizations, groups like Earth First, groups like, the National Sierra Club, they are trying to educate people in the east that this land in the West is unfit for human occupancy, unift in their description so that humans should have minimal contact with these public lands; that the design of these public lands was not in fact the concept of multiple use, or a land of many uses.

They use it as one of their priorities to destroy what we knew the land to be, a land of many uses or, in short, multiple use. Their belief is that multiple use should be eliminated or at least minimized. So they have huge areas, vast amounts of areas out here in the West, regardless of the impact that it has on the generations of people who started back in the homestead days.

So there is a big difference between the East and the West. And who live in the West feel very strongly about the fact that we, like our friends in the East, like Virginia, for example, when I go into Virginia, my good friend Al Stroebants, he lives in Lynchburg, Virginia. He came from Belgium, but the pride he shows in being an American and the pride he has for Virginia and the Virginia mountains. There is a very strong dedication to our States, and I see it in my friend Al and all his family. And, I see it in the Virginia mountains. There is a very strong dedication to our States, and I see it in the Virginia mountains. And the Virginia mountains are beautiful. They are like Earth First, groups like, the National Sierra Club, they are trying to destroy what we knew the land to be, a land of many uses or, in short, multiple use. Their belief is that multiple use should be eliminated or at least minimized. So they have huge areas, vast amounts of areas out here in the West, regardless of the impact that it has on the generations of people who started back in the homestead days.

We are lucky. We have 50 of the greatest States in the country, especially. We have probably the most beautiful land mass. We have not only the strongest country economically, education-wise, militarily; but we also have perhaps the most beautiful geography in the world. When we take it all together, we have to come out on top, especially when we add in our little bonuses like Alaska and Hawaii.

But my point here this evening is this: I ask my good friends from the East to understand the differences that we have in the West face. And it is not just the geographic differences as a result of public lands, but it is also the fact that we are totally dependent in the
West, we are totally dependent, completely, 100 percent. I do not know any other way to say it to describe our dependency, on public lands.

The concept of multiple use is the foundation for the utilization of public lands. If we do not have multiple use, if my constituency were a county in the West, I would put my county into some of the more radical organizations in our country, that the way to eliminate multiple use, for example, is to burn down the lodges in Vail or go to Phoenix, Arizona, and burn down homes, luxury homes that promote the kind of tactics that they revert to to eliminate multiple use; that is wrong.

And one of the other more legitimate ways, although I disagree with it, is to try to educate the mass population in the East that life in the West is kind of like life in the East; not to educate the people on the need for multiple use. If I went down the street here in Washington, D.C., I bet I could stop 100 people; and of those 100 people, I bet I could not find two, maybe not even one, maybe not even one who could tell me what the concept of multiple use and what public lands really means.

Now, I will bet also out of those 100, based on the educational efforts of some of these more radical environmentalists over the last few years, I bet the perception of a lot of those people out of those 100 is that in the West we are destroying the lands; that Yellowstone is being drilled upon; that we are cutting down all of the forests. It could not be further from the truth, colleagues.

Most of you probably vacation in my particular district because of the resorts. I would hope that you take an opportunity, especially during our August recess, to go out into these public lands. Take a close look at them. Put all the propaganda aside and go out and see it for yourself. Go out to Jackson Hole. Go out to Beaver Creek. Go over to Durango. Go to Buena Vista and see just how well that land is cared for.

If you have an opportunity, which should be a basic requirement of your visit, just go stroll on down to the coffee shop. Go talk to a cowboy or cowgirl and ask them a little about the lands. You know what you will get? You will get the same kind of feeling out of Michael Martin Murphy. You get a sense of belief out of the American West. You get a sense of the love that these people have for the land upon which they live and upon which they thrive. You get a sense of our inherent responsibilities to protect this land while at the same time enjoying the use of the land, but to protect it in such a way that we can pass on this gem, and that is what it is. It is a gem. It is a diamond in the rough. Pass this on to future generations.

That vision for future generations, as I just mentioned, we consider it an inherent obligation, a part of our heart. Out in the West it is a part of our heart. We need your support here in the East to help us in the West to continue to thrive and continue to enjoy the type of life-style that our forefathers upon the founding of this country brought to have.

That does not mean, by the way, that we turn our face the other way if we sense abuse out there. I think you will find the first people to crack down on abuse are the people that are most closely impacted by abuse of the lands are the people that live on that land.

I have zero tolerance for people that leave decimated trails and tear up the terrain. I have zero tolerance whether it is mountain bikes, whether it is SUVs, whether it is a canoe or a kayak or a sloppy hiker. I have zero tolerance for people that drop litter, for people who do not properly care for the lands, for people that do not respect the land as much as they found it, for people who do not have respect for that land.

If we allow that to occur we then dilute our obligation and our vision for the next generation. So we do feel very strongly about it, but we also believe in balance. We do not think balance is by burning down the lodge at Vail on top of the mountain. We do not believe that balance is going out into a subdivision just because some people who are building these homes have money and burn their homes into the ground. We do not believe you ought to put spikes in trees. We do not think that is necessary.

We have a lot of different projects. I will talk to you about the Colorado National Monument and our special conservation areas.

In our community we felt that we really needed to instill some vision for this generation. To take the Colorado Canyon Lands Project, and come up with some kind of plan, some kind of strategy to preserve those lands in a special way for the future.

Do you know where that inspiration came from? It did not come from Washington, D.C. That inspiration did not come from some radical organization like Greenpeace or Earth First. That inspiration came from the hearts of the people that lived on the land, from the people that live on that land and the people that listen to the music of people like Michael Martin Murphy, from the hearts of the people like David or Sue Ann Smith or Cole and Carol McInnis who lived there and had their family there for generations. That is where that inspiration came from.

Do you know what we were able to put together? We have people like the Gore family up on top of the monument in Glenade Park. We have people like the King family, Doug and Cathy, from the King ranches. We have people like Mr. and Mrs. Stroobants. We are able to communicate the balance that is necessary so that we can come together as a team to preserve our way of life in community, with people from our chamber of commerce, with locally elected officials like our county commissioners in the various counties, with our State representatives and our State senators.

Do you know what? We were able to put together a vision that helped preserve this land but at the same time allowing multiple use. We put tens of thousands of acres in the wilderness. That is the most extreme management tool you can use out there. That truly does exist. It is the first people of the population from touching that land.

At the same time, we have put in special conservation areas so that people could continue to enjoy their horses for their horseback riding. People could take their hikers. People could spot wildlife. People could go down to the mighty Colorado River and sit on its bank and wonder about the millions and millions of lives and the environment and the heritage of that river.

You say this was a result of people who lived on that land coming together, not as a result of a coalition out of Washington, D.C., who thought they knew better about how to describe life out here in the West. And you did it. We are not a bunch of numbskulls out there or rambling cowboys as some people have the image. In fact, we are pretty proud of ourselves. We think we are pretty thoughtful. We think we are thoughtful in that we understand your concerns here in the East.

There are a lot of people in the East who are justifiably concerned that, regardless of where you live in this country, whether it is the beautiful mountains in Virginia, whether it is the hills of Tennessee, whether it is the coastal areas of Florida, we all as a Nation should be concerned about the preservation of these lands and about the life people lead.

A basic and fundamental part of that concern should be a communication, an expression and participation from the people that live on the land or live on the shore or live on the hills or farm on the plains. Those people ought to have a strong voice at the table. Why? Once you sit down with them as we did with the Colorado Canyon Lands Project, once you sit down with them you will find out that that old geezer has something to say. There is a little history there.

You sit down with somebody like a David Smith and you find out more about water than you ever thought you would know in just a few minutes and about the importance of water in the West and why life in the West is written in water. It is so dry out there that water is fundamentally important.

Mr. Speaker, my real concern this evening, I think I have ably expressed, and I want to deeply again express my appreciation to the communicators in the West, to people who are able to communicate the balance that is necessary so that we can come together as a team to preserve our way of life in the American West. It is possible.

Mr. Speaker, when we talk about the West and the way of life, we are talking about the American Way of Life.
Mr. Speaker, it is not something that needs to be eliminated. It is not something that in the East you have to force your way of life upon. It is something that you, too, as American citizens or as visitors to our great country can enjoy. But when you come out of the mountain tops and look at all of this propaganda that you hear, and I can tell you the propaganda machine about what ought to happen in the West is a well-oiled, well-related machine in the West. I am not saying totally discount what the other side has to say. Listen to that propaganda, but take the time to look up what the other side of the story is. You know the old saying: "There are two sides to every story." That is why I take this microphone tonight, colleagues. I am asking you to take a look at the other side of the story. Because when you do, you will understand why we are so proud of our heritage in the West, why we think that we take pretty good care of the Rocky Mountains and the Dakotas and Utah, Montana, and the Colorado River. It is our lifeblood. We care about it. I want you to care about it and care about it in such a way that the next generation and the generation after can live on it, enjoy it, preserve it and respect it because, if we do that, we will have accomplished a great deal for the next generation and for the future of our country.

Mr. Speaker, the rest of this week looks like it is going to be very busy, and it looks like we are going to be working quite late nights. I was hoping to make some comments tomorrow evening and go into specific detail on why I think we have those 40 minutes about which I have spoken to you about the American West, and let us shift our mind into missile defense and talk for just a few minutes. I will not be able to brief Members this evening like I intended to brief Members tomorrow or Thursday evening, but it looks like I will not have that opportunity.

Mr. Speaker, we had a pretty remarkable success with the missile defense system. Some kind of a perceptron and a target, missile coming under our scenario, a missile aimed at the United States traveling at 4½ miles per second. And we had an intercept missile coming in at 4½ miles. The two of them had to hit. Remember they could not miss by more than three feet. It is like hitting a bullet with a bullet, the effect of shooting a basketball in California and making it through the hoop in Washington, D.C. It is a tremendous success. Now some would say, oh, especially the Chinese and the Russians, how terrible. Who could imagine the American people ever agreeing to protect themselves from incoming missiles.

Mr. Speaker, most American citizens believe that we have some kind of protection from American missiles. They have heard of Cheyenne Mountain in Colorado Springs, the home of NORAD. Do my colleagues know what NORAD does? NORAD detects.

It is a huge complex, built within the granite mountain of Cheyenne Mountain. They can detect a missile launches anywhere in the world. There are a lot of things that they can do for our security. But once they make that detection, that is about all they can do. They can call you on the phone and say to you, hey, look, despite all of the treaties, despite all of the promises made, we have just had a foreign country launch a missile against the United States, against the people that you are sworn to protect. That missile is going to land in about 30 minutes, and we believe it is carrying a nuclear warhead. What else can we tell you?

What are we going to do?

There is not much we can do. We can repeat what we just told you, where it is going to land, the nuclear warhead. The thing is that we think is important is that there is a responsibility for the leaders of this country, not only for this generation and the future generation, but for the people of the world, to provide missile defense so that we do not end up in some kind of horrible, horrible situation, with a world at war, because a missile, an incoming missile, was not stopped before it hit a city like Los Angeles or New York City or Washington, D.C. We can stop that.

The best way to stop a war from happening, the best way to maintain peace is to disarm your neighbor, especially if it is an unfriendly neighbor. Think about it. Why on earth would you say we should not defend ourselves against incoming missiles? It does not make sense. It is kind of like your neighbor having a gun, and your neighbor deciding that he wants your watermelons. And the neighbor is known to sometimes use that gun against you. Do you think it is crazy to set up some kind of defense, maybe a big fence that your neighbor cannot get over to come use his gun? That is exactly what we need to do here.

At some point in time in the future, and mark this, Members who are opposing this system, those who are opposed to our defensive system, at some point in the future, somebody will launch a missile against the United States of America. For those of you who oppose a defensive system, not an offensive system, a defense system, for those of horrible, horrible people, who will cast a vote against a defensive missile system, you, I hope, will be around to answer to the survivors of a missile attack against this country. I hope that you will never have to do that. I hope that the idea that a missile would be launched against the United States does not happen.

But I think every one of us has to be realistic here. The fact is, the odds are
that somebody at some point will launch a missile against the United States of America and that the United States of America is fooling itself. There is a saying out there. The last person you want to fool is yourself. The last person the United States of America wants to fool ought to be itself. Kudos to the President. Kudos to our defense and our military operational heads to say, look, we cannot afford to put blinders on and pretend. Look, nobody is going to fire a missile against us. Look, nothing is going to happen against us by these rogue countries.

Take a look at how many rogue countries now have missiles. Take a look at how many of these rogue countries have nuclear warheads on those missiles. Do you think that the United States of America by putting them on the back is going to get them to destroy those missiles, or to disarm? No way. These countries are not going to disarm because it is less care less dangerous. The United States of America tells them. Having a nuclear missile or any type of missile, is that is pretty macho thing in some of these countries. In some of these Third World countries, having the artillery reach and be able to hit the target, the independent reach and the button and take and on the strongest country in the history of the world destroy one of their cities or, even worse, it makes them feel pretty good. We play right into their game; we play right into their card game. We play right into their game because we do not build some kind of defensive mechanism.

We need to have a defense. We use it everywhere else, not missile defense, but we use defenses everywhere. Take a look at highways. We put speed bumps to slow you down. Why? Because we do not want an incoming car. We want to slow them down. Every one of my colleagues could think of example after example after example where we deploy a defensive measure to protect our health, our safety, our health and the well-being of our children. That is why we have speed zones at schools. That is why we have crossing guards. That is why we have tough law enforcement, so that we can preserve those things that are special to us. Now, for us not to put out a defense that protects a country that is special to us is foolish.

Now, because I cannot go into the details, but I will in the next week, I hope, I am going to have some diagrams and show you why this system will work. Now, remember that the critics of this system will tell you, first of all, we have offended China and Russia. Do not offend China and Russia. And our European colleagues, they are upset about this because of the fact we might offend Russia and China.

Who do you think is likely to use a missile against the United States? Not only those rogue countries, but do not discount China and do not discount Russia. I hope it never happens. I hope we become allies with these people. And if we do become allies, then we do not need to use a defensive missile system. You just have it in place. You never have to engage it. But the reality is somewhere in the future there is going to be a difference of opinion, a professional difference with these two countries. A rogue nation, a rogue third world nation, may not need a reason to fire a missile against us. People have been willing to blow up our airplanes, they have been willing to shoot athletes at the Olympics, they have been able to set off a bomb at the Olympics in China. Of some day somebody may want to launch a missile against the United States?

Now, the critics, as I was saying earlier, will say, well, the system has had too many failures. How many failures did we have before we came up with penicillin? How many failures did we have before we mastered the car? Of course you are going to have failures. The technological requirement, the expertise to have two objects that are traveling 4½ miles a second, to be able to intercept right on the spot, you cannot afford to miss. You do not get two shots; you get one shot on that intercept over the weekend. It worked. I can assure you that our European colleagues, that the people in the leadership in Russia and China are saying, wow, American technology.

By gosh, we may disarm Russia and China simply by coming up with a defensive mechanism. Why put all our might into a missile system if the country that you are concerned about, the United States, has the ability to stop them? You want to know what is going to stop missile growth in this world? It is the ability to make them an ineffective weapon. But how do you make them an ineffective weapon if you do not have some type of shield against them? What we are talking about with our missile defense system is a shield, a shield that is not just a wall or the heavy metal that is shield that we would share with our allies. Frankly, a shield that the more it is shared, the less likely that there will ever be a missile attack because the missiles, which are very expensive and the technology that is required is substantial, those missiles become pretty darn ineffective. How could somebody legitimately argue that we should not deploy a strategy that will make missiles less effective?

Mr. Chairman, I do have a heavy burden on our shoulders. That heavy burden requires that we protect. We have an inherent responsibility to protect the citizens of this country from somebody who decides they want to launch a missile against us. This is not starting a war. It is not starting an arms race. That is rhetoric. And even if it was rhetoric, are we going to let them bully us into not defending our citizens? We, as members of the United States Congress in part to not only protect the Constitution but to protect the people of this country.

We have deep, running obligations to the people and the safety and the welfare of this country. It is in every bill we pass. A part of doing that requires us to deploy, in my opinion, a missile defense system so that the United States and its allies, 20 years from now, I want them to look back and say, gosh, those missiles, that is what used to prevent them from becoming threats. Today, nobody could fire a missile anywhere because you could stop it in flight or better yet you could stop it on the launching pad.

So there is a lot to think about with this missile defensive system. But the basic philosophy, the basic thought ought to receive a “yes” vote from everybody in these Chambers. Everybody in the Chambers, every one of my colleagues ought to be in support of a missile defense system. I think you owe it to the constituents that you represent.

In summary, we need a missile defensive system for this country. Technologically we are going to be able to do it. Sure it is going to be expensive. The technology that we have today is going to be able to deploy it. Landing a person on the Moon was expensive. Sending a ship to Mars was expensive. There are lots of things the technology requires is expensive. Conservation is going to be expensive for us but it works. And this missile technology worked this weekend, and we have years of testing left; but it will work and it will be a lifesaver for hundreds of millions of people in this world.

Mr. Speaker, I hope my colleagues had an opportunity to listen to my comments on the American West. I am proud to be an American citizen, but I am deeply proud of being able to have been born and raised in the American West. I hope all of my colleagues have that opportunity to experience what I have been able to spend an entire lifetime experiencing.

LEAVE OF ABSENCE
By unanimous consent, leave of absence was granted to:
Mr. BISHOP (at the request of Mr. GEPHARDT) for today on account of a death in the family.

SPECIAL ORDERS GRANTED
By unanimous consent, permission to address the House, following the legislative program and any special orders that have been entered, was granted to:
Mr. BONIOR, for 5 minutes, today.
Ms. JACKSON-LEE of Texas, for 5 minutes, today.
Mr. LANGFITT, for 5 minutes, today.
Mr. BROWN of Ohio, for 5 minutes, today.
Mr. FALLONE, for 5 minutes, today.
Mr. EDWARDS, for 5 minutes, today.
Mr. KERNIS, for 5 minutes, today.
Mr. KERNIS, for 5 minutes, today.
Mr. DUNCAN, for 5 minutes, today.

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:


SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

H.R. 4110—Chief Financial Officer Establishment Act of 2001—received July 17, 2001, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.


2939. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department’s final rule—Airworthiness Directives; Bombardier Model MD-11 Series Airplanes [Docket No. 97–NM–267–AD; Amendment 39–12265; AD 2001–08–23] (RIN: 2120-AA64) received July 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

EXECUTIVE COMMUNICATIONS.

Under rule 8 of rule XII, executive communications Act were taken from the Speaker’s table and referred as follows:

2923. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department’s final rule—Gypsy Moth Generally Infested Areas [Docket No. 01–049–1] received July 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2926. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Vice Admiral Richard A. Nelson, United States Navy, and his advancement to the grade of Vice Admiral on the retired list; to the Committee on Armed Services.

2927. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Bruce B. Knutson, Jr., United States Marine Corps, and his advancement to the grade of Lieutenant General on the retired list; to the Committee on Armed Services.

2928. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Lawson W. Magruder III, United States Army, and his advancement to the grade of Lieutenant General on the retired list; to the Committee on Armed Services.

2929. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General William M. Steele, United States Army, and his advancement to the grade of Lieutenant General on the retired list; to the Committee on Armed Services.


REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

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

Mr. KOLBE: Committee on Appropriations.

H.R. 2506. A bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2002, and for other purposes (Rept. 107–142). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER, Chairman: Committee on the Judiciary.

H.R. 2507. An amendment to the Homeland Security Act of 2002 to authorize the Department of Homeland Security to produce and distribute nationally comprehensive biometric and other security documents at the Department of the Treasury to produce currency, postage stamps, and other security documents at the Department of the Treasury to ensure national security, and for other purposes; to the Committee on the Judiciary, and for other purposes; to the House Calendar.

By Mr. BALDASSARI:

H.R. 2510. A bill to extend the expiration date of the Federal Defense Production Act of 1950, and for other purposes; to the Committee on Financial Services.

By Mr. NOLAN:

H.R. 2511. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage energy conservation, energy reliability, and energy production; to the Committee on Ways and Means.

By Mr. HINOJOSA (for himself, Mr. FROST, Mr. FILNER, Mr. REYES, Mr. RODRIGUEZ, Mr. O'NEIL, Mr. GONZALEZ, and Mr. PASTOR):

H.R. 2512. A bill to authorize additional appropriations for the United States Customs Service and assistance to military and foreign law enforcement, and for other purposes; to the Committee on Ways and Means.

By Mr. ALLEN (for himself, Mr. BALDASSARI, and Mr. SANDERS):

H.R. 2513. A bill to amend title XI of the Social Security Act to clarify that the Secretary of Health and Human Services has the authority to treat certain State payments made in an approved demonstration project as medical assistance under the Medicaid Program for purposes of a rebate agreement under section 1927 of the Social Security Act, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ALLEN:

H.R. 2514. A bill to provide for burden-sharing contributions from allied and other friendly foreign countries for the costs of deployment of any United States missile defense system that is designed to protect those countries from ballistic missile attack; to the Committee on International Relations, and in addition to the Committees on Armed Services, and the Budget, 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. BILER (for himself and Mr. SCHROCK):

H.R. 2515. A bill to amend title 32, United States Code, to remove the limitation on the use of defense funds for the National Guard civilian youth opportunities program, to lessen the matching funds requirements under the program, and for other purposes; to the Committee on Armed Services.

By Mr. BARTLETT (for himself, Mr. BOUCHER, Mr. BROWN of Ohio, Mrs. CAPPS, Mr. GIEL syn, Mr. ENGLE, Mr. LUTHER, Ms. McCARTHY of Missouri, Mr. MARKAY, Mr. PALLONE, Mr. RUSC, Mr. STRICKLAND, Mr. TOWNS, and Mr. WAXMAN):

H.R. 2516. A bill to enhance the Federal Government's leadership role in energy efficiency by requiring Federal agencies to acquire, operate, maintain, and use transportation, fuel, heating, and cooling systems and equipment that meet or exceed certain efficiency standards; to the Committee on Government Reform, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BERRETER (for himself and Mr. SANDERS):

H.R. 2517. A bill to reauthorize the Export-Import Bank of the United States, and for other purposes; to the Committee on Financial Services.

By Mr. BOEHNER (for himself and Mr. UDALL of Colorado):

H.R. 2518. A bill to establish a pilot program within the Department of Commerce to facilitate the use of alternative fuel school buses through grants for energy demonstration and commercial application of energy efficiency; and for other purposes; to the Committee on Science, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CHABOT (for himself and Mr. DELAHAYE):

H.R. 2519. A bill to allow media coverage of court proceedings; to the Committee on the Judiciary.

By Mr. DOOGERT (for himself, Mr. RANGL, Mr. STARK, Mr. MATSU, Mr. COYNE, Mr. LEVIN, Mr. McDERMOTT, Mr. KRIEGER, Mr. CONYX, Mr. WAGGONER, Mr. McGOVERN, Mr. GEORGE MILLER of California, Mr. SANCHEZ, Ms. SCHRACK, Mr. TIERNEY, and Mrs. JONES):

H.R. 2520. A bill to amend the Internal Revenue Code of 1986 to curb tax abuses by disallowing tax benefits claimed to arise from arm's-length transactions without substantial economic substance, and for other purposes; to the Committee on Ways and Means.

By Mr. CLEMENT (for himself and Mr. HILLEARY):

H.R. 2521. A bill to permit States to place supplemental guide signs relating to veterans cemeteries on Federal-aid highways; to the Committee on Transportation and Infrastructure.

By Mr. COBLE (for himself and Mr. BERMAN) (both by request):

H.R. 2522. A bill to make improvements in the operation and administration of the Federal Emergency Management Agency, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, 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. CUMMINGS (for himself, Mrs. JONES of Ohio, Mr. WYNN, Ms. NORTON, Mr. STUPAK, Mr. LAFOURD, Ms. MCKINNEY, Mr. GREEN of Texas, Mr. OWENS, Mrs. MINK of Hawaii, Mr. KUCINICH, Mr. DAVIS of Illinois, and Mr. JEFFERSON):

H.R. 2523. A bill to eliminate certain inequities in the Civil Service Retirement System and the Federal Employees' Retirement System with respect to the computation of benefits for law enforcement officers, firefighters, air traffic controllers, nuclear materials couriers, members of the Supreme Court and Capitol police, and their survivors, and for other purposes; to the Committee on Government Reform.

By Mr. DICKS:

H.R. 2524. A bill to provide for the use and distribution of the funds awarded to the Quinault Indian Nation under United States Claims Court Docket 772–71, 773–71, 774–71, and for other purposes; to the Committee on Resources.

By Mr. LINDER (for himself, Mr. PETERSON of Minnesota, Mr. YOUNG of Alaska, Mr. HALL of Vermont, Mr. LEWIS of California, Mr. BARCIA, Mr. BONILLA, and Mr. CONDIT):
H.R. 2352. A bill to promote freedom, fairness, and economic opportunity by repealing the income tax and other taxes, abolishing the Internal Revenue Service, and enacting a national sales tax to be administered primarily by the States; to the Committee on Ways and Means.

By Mr. GOODLATTE (for himself, Mr. BROOKS, Mr. DAVIS of Oregon, Mr. MOORE, Mr. RAUL G. GUTIERREZ, Mr. ROYBAL-CASTORENA, Mr. CAMP, Mr. BILENKER, Mr. JACKSON, Mr. HUEWITT, Mr. GOOLSBY, Mr. WALKER of Georgia, Mr. HASTERT, Mr. McCOLLUM, Mr. DUNCAN, Mr. MOYER, Mr. PETRI, Mr. CRAMER, and Mr. WATERS).

H.R. 2352. A bill to make permanent the moratorium enacted by the Internet Tax Freedom Act, and for other purposes; to the Committee on the Judiciary.

By Mr. KIND (for himself, Mr. ISAKSON, Mrs. MCCARTHY of New York, Mrs. BIGGERT, Mr. ANDREWS, Mr. PETRI, Mr. JOHNSON of Georgia, Mr. HUNTER, Mr. CHABOT, and Mr. BROWN of Ohio).

H.R. 2352. A bill to provide grants for training of realtime court reporters and closed captioning requirements for closed captioning set forth in the Telecommunications Act of 1996; to the Committee on Education and the Workforce.

By Mr. KOLBE.

H.R. 2352. A bill to modernize the legal tender of the United States, and for other purposes; to the Committee on Financial Services.

By Mr. NEAL of Massachusetts (for himself and Mr. Matsu).

H.R. 2352. A bill to amend the Internal Revenue Code of 1986 to allow the low-income housing credit, without regard to whether moderate rehabilitation assistance is provided with respect to a building; to the Committee on Ways and Means.

By Mr. GRANTER (for himself and Mr. SPROTT).

H. Res. 196. A resolution providing for consideration of the bill (H.R. 7) to provide incentives for charitable contributions by individuals and businesses, to improve the effectiveness and efficiency of government programs delivered by small business, and to enhance the ability of low-income Americans to gain financial security by building assets; considered and agreed to.

By Ms. PRYCE of Ohio.

H. Res. 196. A resolution providing for consideration of the bill (H.R. 7) to provide incentives for charitable contributions by individuals and businesses, to improve the effectiveness and efficiency of government programs delivered by small business, and to enhance the ability of low-income Americans to gain financial security by building assets; considered and agreed to.

By Ms. SCHAKOWSKY (for herself, Mr. SANDERS, Mr. GUTIERREZ, Mr. JACKSON of Illinois, Mrs. CLAYTON, Mr. HINCHEN, Ms. NORTON, Mr. PAYNE, Mr. DAVIS of Illinois, Ms. MCKINNEY, Mr. RUSH, Ms. JACKSON-LEE of Texas, Mr. DEFAZIO, Ms. WATKINS, Mr. JEFFERSON, and Mr. FINKEL).

H. Res. 232. A bill to amend the Truth in Lending-Real Estate Settlement Procedures Act of 1968, to conform its provisions to changes in the property law, to clarify the relationship between the act and the Federal Reserve Board’s Regulation Z, and to provide for appropriate administrative hearing procedures; to the Committee on Financial Services.

By Mr. SMITH of Michigan.

H.R. 232. A bill to provide for the establishment of regional plant genome and gene expression research and development centers; to the Committee on Agriculture.

By Mr. SMITH of Michigan.

H.R. 233. A bill to amend the Federal Election Campaign Act of 1971 to reduce the influence of campaign contributions and expenditures on elections for Federal office, and for other purposes; to the Committee on House Administration.

By Ms. SOLIS (for herself and Mr. SCHIFF).

H.R. 2341. A bill to authorize the Secretary of the Interior to conduct a special study of the Lower Los Angeles River and San Gabriel River watersheds in the State of California, and for other purposes; to the Committee on Resources.

By Mr. STEARNS.

H.R. 2335. A bill to permit wireless carriers to obtain sufficient spectrum to meet the growing demand for wireless services; to the Committee on Commerce, Justice, Science, and Related Agencies.

By Mr. STEARNS.

H.R. 2353. A bill to amend the Communications Act of 1934 to restrict the sharing of information among the Federal Communications Commission, the Department of Justice, the Department of the Treasury, and the Securities and Exchange Commission; to provide for appropriate administrative hearing procedures; and for other purposes; to the Committee on Commerce, Justice, Science, and Related Agencies.

By Mr. WATKINS.

H.R. 2353. A bill to amend the Internal Revenue Code of 1986 to allow the low-income housing credit, without regard to whether moderate rehabilitation assistance is provided with respect to a building; to the Committee on Ways and Means.

By Mr. PRYCE of Ohio.

H. Res. 195. A resolution commending the United States military and defense contractor personnel responsible for the successful in-flight ballistic missile defense intercept test on July 14, 2001, and for other purposes; to the Committee on Armed Services.

By Mr. BARRETT (for himself, Mr. BARR of Georgia, Mr. HILLIARY, Mr. HOSTETTLER, Mr. REHBERG, Mr. PAUL, Mr. REYNOLDS, Mr. ADERHOLT, and Mr. SCOTT).
H.R. 236: Mr. Udall of Colorado, Mr. Isakson, Ms. McCarthy of Missouri, Mr. Schiff, and Mr. Grucci.
H.R. 237: Mr. Terry and Mrs. Cuien.
H.R. 239: Mr. Sanders, Mr. McDermott, Mr. Jefferson, Mr. Bubuliss, Mr. McIntyre, Mr. Winker Mr. Honda, Mr. Engel, and Mr. Michaud.
H.R. 239b: Mr. Isakson and Mr. Kildee.
H.R. 239c: Mr. Norton.
H.R. 239d: Mr. Wexler, Ms. Wynn, Ms. Kilpatrick, Mr. Kennedy of Rhode Island, Mr. Udall of Colorado, Mr. Bach, Mr. Lampson, and Mr. Lungren.
H.R. 239f: Mr. Cardin, Ms. Norton, Mr. Wynn, Mr. Jefferson, Ms. Solis, and Mr. Price of North Carolina.
H.R. 239g: Mr. Wexler.
H.R. 239h: Mr. Hinchey, Mr. Oxley, Mr. Meeks of New York, and Mr. Norton.
H.R. 239i: Mr. Pitts.
H.R. 2413: Mr. Sanders, Mr. Mink of Hawaii, and Mr. Schrock.
H.R. 2417: Mr. McGovern, Ms. McKinney, Mr. Towns, Mr. Jackson of Illinois, Mr. Lucas of Kentucky, and Ms. Mink of Hawaii.
H.R. 2435: Ms. Harman and Mr. Terry.
H.R. 2436: Mr. Borski and Mr. Kirk.
H.R. 2438: Ms. McKinney and Mr. Hilliard.
H.R. 2439: Mr. Nadler.
H.R. 2440: Mr. Blajojevich, Ms. McKinney, and Mr. Thompson of California.
H.R. 2441: Mr. Land.
H.R. 2442: Ms. Halman, Mr. Pomeroy, Ms. Speier, Ms. Lipinski, Mr. Baird, Mr. Doogertt, Mr. Stupak, and Mr. Diaz-Balart.
H.R. 2446: C. Mrs. Capu.
H.R. 2447: Ms. Sherman.
H.R. 2448: Mr. Rush.
H.R. 2449: Mr. Ronkema.
H.R. 2450: Mr. Sweeney, Mr. Watt of North Carolina, Mr. Hoppelf, Mr. Berman, Mr. Lewis of Kentucky, Mr. Oliver, Mr. Engel, and Mr. Bounder.
H.R. 2451: Mr. Folty, Mr. Green of Wisconsin, Mr. Hinchey, Ms. Millender-McDonald, Mr. Carson of Oklahoma Ms. Ros-Lehtinen, Mr. Honda, Ms. Norton, Mr. Hilliard, Mr. Sanders, and Ms. Hooley of Oregon.
H.R. 2452: Mr. Inslee and Mr. McHugh.
H.R. 2453: Ms. Slaughter.
H.R. 2454: Mr. Sherman, Mr. Holt, and Mr. Souder.

AMENDMENTS

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

H.R. 2500  Offered by: Mr. Bartlett of Maryland

Amendment No. 14: At the end of the bill (preceding the short title), insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

Sec. 801. None of the funds made available in this Act may be used to negotiate or pay any request or claim by the Government of the People’s Republic of China for reimbursement of the costs associated with the detention of the crew members of the United States Navy EP-3 aircraft that was forced to land on Hainan Island, China, on April 1, 2001, or for reimbursement of any of the costs associated with the return of the aircraft to the United States.

H.R. 2500  Offered by: Mr. Hastings of Florida

Amendment No. 16: Page 45, line 21, after the dollar amount, insert the following: ‘‘reduced by $250,000’’.

Page 46, line 16, after the dollar amount, insert the following: ‘‘(increased by $250,000, for a grant to the City of Pahokee, Florida to assist in the dredging on the City Marina)’’.  

H.R. 2500  Offered by: Ms. Jackson-Lee of Texas

Amendment No. 17: Page 71, line 5, immediately before the period insert the following:

: Provided further, That, notwithstanding any other provision of law, of the amount made available under this heading, $7,800,000 shall be available to provide funds for legal representation for parents who are seeking the return of children abducted to or from the United States under the Hague Convention on the Civil Aspects of International Child Abduction

H.R. 2500  Offered by: Ms. Jackson-Lee of Texas

Amendment No. 20: Page 108, line 22, insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

Sec. 801. None of the funds made available in title I of this Act may be used to prohibit states from participating in voluntary child safety gun lock programs.

H.R. 2500  Offered by: Ms. Jackson-Lee of Texas

Amendment No. 21: At the end of the bill, insert after the last section (preceding the short title) the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

Sec. 801. None of the funds made available in this Act may be used to remove, deport, or exclude any alien from the United States under the Immigration and Nationality Act for conviction of a crime if the alien—

(1) before April 1, 1997, entered into a plea agreement under which the alien pleaded guilty to the crime that renders the alien inadmissible or deportable; and

(2) after June 25, 2001—

(a) requests discretionary relief under section 212(c) of the Immigration and Nationality Act (as in effect at the time of the alien’s plea agreement) on the ground that the opinion of the Supreme Court of the United States rendered in Immigration and Naturalization Service v. St. Cyr, 533 U.S.— (2001) renders the alien eligible to seek such relief; and

(b) has not received a final order of removal, deportation, or exclusion upon denial of such request.

H.R. 2500  Offered by: Ms. Jackson-Lee of Texas

Amendment No. 22: Page 108, after line 22, insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

Sec. 801. Of the amount appropriated for ‘‘Department of Justice, Juvenile Justice Programs’, $2,000,000 shall be available only for the City of Houston At-Risk Children’s Program of the At-Risk Children’s Program under title V of the ‘‘Juvenile Justice and Delinquency Prevention Act of 1974.

H.R. 2500  Offered by: Ms. Jackson-Lee of Texas

Amendment No. 23: Page 108, after line 22, insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

Sec. 801. The amounts otherwise provided by this Act are revised by reducing the amount made available for ‘‘Salaries and Expenses, General Administration, Department of Justice’’, and increasing the amount made available for ‘‘Salaries and Expenses, Community Relations Service, Department of Justice’’, by $1,000,000.

H.R. 2500  Offered by: Ms. Jackson-Lee of Texas

Amendment No. 24: Page 108, after line 22, insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

Sec. 801. Of the amounts made available under the heading ‘‘Immigration and Naturalization Service, Enforcement and Border Affairs’’, not less than $3,000,000 shall be used to make legal orientation presentations to aliens being held in detention in order to improve deserving aliens’ access to relief, to increase the efficiency of the immigration system, and to reduce the overall cost of detaining aliens.

H.R. 2500  Offered by: Ms. Jackson-Lee of Texas

Amendment No. 25: Page 108, after line 22, insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

Sec. 801. Of the amounts made available under the heading ‘‘Immigration and Naturalization Service, Enforcement and Border Affairs’’, $20,000,000 may be used for a program of alternatives to detention for aliens who are not a danger to the community and are not likely to abscond.

H.R. 2500  Offered by: Ms. Kerns

Amendment No. 26: At the end of the bill (preceding the short title), insert the following:
submitted under the system by, or on behalf of, each person determined under such system not to be prohibited from receiving a firearm.

H.R. 2500

OFFERED BY: MRS. MALONEY OF NEW YORK

AMENDMENT No. 27: Page 47, line 22, after the dollar amount, insert the following: “(reduced by $2,000,000)”. Page 48, line 11, after the dollar amount, insert the following: “(increased by $2,500,000)”.

H.R. 2500

OFFERED BY: MRS. MALONEY OF NEW YORK

AMENDMENT No. 28: Page 48, line 3, after the dollar amount, insert the following: “(increased by $2,000,000)”.

H.R. 2500

OFFERED BY: MRS. MALONEY OF NEW YORK

AMENDMENT No. 29: Page 48, line 1, after the dollar amount, insert the following: “(increased by $500,000)”.

Page 48, line 14, after the dollar amount, insert the following: “(reduced by $500,000)”.

H.R. 2500

OFFERED BY: MR. MORAN OF VIRGINIA

AMENDMENT No. 30: At the end of the bill (preceding the short title), insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

SEC. 801. None of the funds made available in this Act may be used to destroy any record of the national instant criminal background check system established under section 103 of the Brady Handgun Violence Prevention Act, within 90 days after the date the record is created.

H.R. 2500

OFFERED BY: MRS. NORTON

AMENDMENT No. 31: Page 88, line 11, after the dollar amount, insert the following: “(increased by $1,000,000) (reduced by $1,000,000)”.

H.R. 2500

OFFERED BY: MR. OHSY

AMENDMENT No. 32: At the end of the bill (before the short title), insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

SEC. 801. None of the funds made available in this Act may be used by the Federal Communications Commission to implement changes in the Commission’s rules, or the policies established to administer the rules, relating to media cross-ownership and multiple ownership as set forth at section 73.3555 of title 47, Code of Federal Regulations.

H.R. 2500

OFFERED BY: MR. OLIVER

AMENDMENT No. 33: Page 107, beginning on line 21, strike section 623 (relating to Kyoto Protocol).

H.R. 2500

OFFERED BY: MR. OXLEY

AMENDMENT No. 34: Page 94, beginning on line 9, strike “Provided further, That fees” and all that follows through line 20 and insert a period.

H.R. 2500

OFFERED BY: MR. ROHRABACHER

AMENDMENT No. 35: At the end of the bill (before the short title), insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

SEC. 801. None of the funds made available in this Act may be used by the Department of Justice or the Department of State to file a motion in any court opposing a civil action against any Japanese person or corporation for compensation or reparations in which the plaintiff alleges that, as an American prisoner of war during World War II, he or she was used as slave or forced labor.

H.R. 2500

OFFERED BY: MR. STEARNS

AMENDMENT No. 36: Page 83, after line 22, insert the following:

SEC. 404. (a) Congress finds the following:

(1) Linda Shenwick, in the performance of her duties, informed the Congress of waste, fraud, and mismanagement at the United Nations.

(2) Linda Shenwick’s findings of waste, fraud, and mismanagement led to the creation of the Office of Inspector General at the United Nations.

(3) Department of State officials retaliated against Linda Shenwick by removing her from her position at the United Nations, withholding her salary, downgrading her performance reviews, and ultimately terminating her employment with the Department of State.

(4) The Whistleblower Protection Act of 1989 (Public Law 101–12) protects the disclosure of information to the Congress and prohibits reprisal against an employee for such disclosure.

(b) It is the sense of Congress that Linda Shenwick, a dedicated Federal employee who, in the performance of her duties, informed the Congress of waste, fraud, and mismanagement at the United Nations, should be reinstated to her former position at the Department of State.

H.R. 2500

OFFERED BY: MR. TRAFICANT

AMENDMENT No. 37. Page 108, after line 7 insert the following:

SEC. . None of the funds made available by this Act shall be used to house prisoners in a Federal prison facility that is deemed overcrowded by Bureau of Prisons standards.

H.R. 2500

OFFERED BY: MR. TRAFICANT

AMENDMENT No. 38. Page 108, after line 7, insert the following new section:

SEC. . No funds appropriated or otherwise made available under this Act shall be made available to any person or entity that has been convicted of violating the Buy American Act (41 U.S.C. 10a–10c).

H.R. 2500

OFFERED BY: MS. VELÁZQUEZ

AMENDMENT No. 39. Page 59, line 13, after the dollar amount insert the following: “(reduced by $2,000,000)”.

Page 71, line 4, after the dollar amount insert the following: “(reduced by $8,000,000)”.

Page 73, line 3, after the dollar amount insert the following: “(reduced by $7,000,000)”.

Page 85, line 19, after the dollar amount insert the following: “(increased by $10,000,000)”.

H.R. 2500

OFFERED BY: MR. WU

AMENDMENT No. 40. At the end of the bill, insert after the last section (preceding the short title) the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

SEC. 801. None of the funds made available in this Act may be used to process an application under the Immigration and Nationality Act, or any other immigration law, submitted by or on behalf of an alien who has been directly or indirectly involved in the harvesting of organs from executed prisoners who did not consent to such harvesting.

H.R. 2506

OFFERED BY: MS. MILLENDER-McDONALD

AMENDMENT No. 1: In title II of the bill under the heading “CHILD SURVIVAL AND HEALTH PROGRAMS FUND”, insert before the period at the end the following: “Provided further, That of the amount made available under this heading for HIV/AIDS transmission through effective partnerships with nongovernmental organizations and research facilities pursuant to section 104(c)(5) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)(5))”.

H.R. 2506

OFFERED BY: MR. OLIVER

AMENDMENT No. 2: Strike section 566 (relating to Kyoto Protocol).
The Senate met at 9 a.m. and was called to order by the Presiding Officer, the Honorable HILLARY RODHAM CLINTON, a Senator from the State of New York.

**PRAYER**

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

God of peace, we confess anything that may be disturbing our peace with You as we begin this day. We know that if we want peace in our hearts, we cannot harbor resentment. We seek forgiveness for any negative criticism, gossip, or destructive innuendos we may have spoken. Forgive any way that we have brought acrimony to our relationships instead of helping to bring peace into any misunderstanding among or between the people of our lives. You have shown us that being a reconciler is essential for continued, sustained experience of Your peace. Most of all, we know that lasting peace is the result of Your indwelling spirit, Your presence in our minds and hearts.

Show us how to be communicators of peace that passes understanding, bringing healing reconciliation, deeper understanding, and hope and communication.

In the name of the Prince of Peace. Amen.

**PLEDGE OF ALLEGIANCE**

The Honorable HILLARY RODHAM CLINTON 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. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
President pro tempore,

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HILLARY RODHAM CLINTON, a Senator from the State of New York, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

MRS. CLINTON thereupon assumed the chair as Acting President pro tempore.

**RECOGNITION OF THE MAJORITY LEADER**

The ACTING PRESIDENT pro tempore. The majority leader.

**SCHEDULE**

Mr. DASCHLE. Madam President, today the Senate will resume consideration of the Bankruptcy Reform Act. The prior agreement called for 3 hours of debate prior to a rollcall vote on closure of a substitute amendment at approximately 12 o’clock today. There will be a recess for the weekly party conferences from 12:30 to 2:15. We expect to return then to the Energy and Water Appropriations Act today, with rollcall votes on amendments expected throughout the afternoon.

Last week the Senate confirmed 53 nominations. I don’t know that there has been a week in recent times where we have accomplished that much with regard to nominations. I expect to continue that level of progress this week. There are currently 10 nominations on the Executive Calendar. Our caucus is prepared to move immediately on 8 of those 10. One of the remaining two, Mr. GRAHAM, already has a time agreement regarding his consideration. I expect to be able to dispose of his nomination between the energy and water appropriations bill, which we will resume after the bankruptcy bill is sent to conference, and the Transportation appropriations bill. I also expect to dispose of the Ferguson nomination at that time.

The legislative branch appropriations bill is on the calendar. The committee staff has informed us that they know of no amendments. So we hope to be able to complete action on that bill as well this week.

If we can accomplish these items, including the Transportation bill, by the close of business on Thursday, then we will not have votes this Friday. If not, of course, we will then be on the bill on Friday with votes possible throughout the day.

That is the plan for the week. We will do bankruptcy this morning, energy and water this afternoon for whatever length of time it takes. Tomorrow we will do the Graham nomination, then the Transportation and legislative appropriations bills.

This will be a busy week but, I think, a productive week. Hopefully, we can accomplish a good deal by continuing to work together.

**BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2001**

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 333, which the clerk will report. The legislative clerk read as follows: A bill (H.R. 333) to amend title 11, United States Code, and for other purposes.

Pending: Leahy/Hatch/Grassley amendment No. 974, in the nature of a substitute.

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 3 hours for debate, 2 hours under the control of the Senator from Minnesota, Mr. WELLSTONE, and 1 hour to be equally divided between the chairman and ranking member of the Judiciary Committee or their designees.
The issue is not new. In fact, the issue of bankruptcy and personal responsibility has been debated since the 1930s, and Congress has made numerous attempts to decrease the moral stigma associated with bankruptcy. As in previous versions of the bankruptcy bill, the language that Amendment is part of an effort to ensure that bankruptcy is reserved for those who truly need it, and that persons with the means to repay their debts should assume their responsibilities.

Some say the amendment is unfair and unbalanced because it makes it harder for normal people to avail themselves of bankruptcy. This is just not true either.

First, the bankruptcy bill applies to everyone, rich and poor, and the premise behind the bill—that you should pay your debts if you can—does not discriminate against poor people. If, in fact, there is a safe harbor provision for lower income people. The bill specifically exempts those who earn less than the median income for their State. And for those consumers to which the bill does apply, the means test that is set forth in the bill is flexible, as it should be. It takes into account the reasonable expenses of a debtor as applicable under standards not set by me but issued by the IRS for the area in which the debtor resides.

The means test permits every person to deduct 100 percent of medical expenses, in addition to any other expenses, to care for the support and care of elderly parents, grandparents, and disabled children. In addition, the means test would permit battered women to deduct domestic violence expenses and protects their privacy. Furthermore, the means test allows every consumer to show “special circumstances” to avoid a repayment plan, just in case there is something within this formula that just doesn’t fit every particular family in America. As the Senator from New York, Mr. Schumer, said a number of times about the enhanced consumer protections and credit card disclosures that are contained in the bill. The bankruptcy bill requires credit card companies to provide key information about how much a customer owes on his credit card, as well as how long it is going to take to pay off the balance by making just a minimum payment. We do that by requiring that the credit card companies set up a toll-free number for consumers to get information on their specific credit card balances.

The bill prohibits deceptive advertising of low introductory rates. The bill provides for penalties on creditors who refuse to renegotiate reasonable payment schedules outside of bankruptcy. The bill strengthens enforcement against abusive creditors and increases penalties for predatory debt collection practices. The bill also includes credit counseling programs to help avoid and break the cycle of indebtedness.

Let me remind colleagues about the provisions contained in this bill that will help women and children because there has been a dramatic change in the direction of this legislation when it was introduced three Congresses ago until it now has reached the point where it is today. The bill before us more fairly weighs personal responsibility against the bankruptcy system. The language that Amendment is part of an effort to ensure that bankruptcy is reserved for those who truly need it, and that persons with the means to repay their debts should assume their responsibilities.

The bill has gone through the regular order and we should proceed to conference under the regular order.

There are a lot of reports out there that have distorted the truth about this bill. Some businesses have said that the bill is very controversial. That is not the case. I first started working on bankruptcy reform back in the 1990s, when Senator Heflin, now retired, and I set up a Bankruptcy Review Commission to study the bankruptcy system. This commission was not made up of any Members of the Congress. It was made up of experts in the area of bankruptcy to study the issue so that what we did in this Chamber, with their recommendations, would be done in an intelligent way.

The debate that set up the Bankruptcy Review Commission was prompted by small business and other small proprietors that had problems with individuals who were reneging on their debts but then turned out, it seemed, to have the ability to pay their bills. The impact on these small businesses, obviously, was significant: Prices had to be raised for items; maybe some businesses went out of business. When that happens, employees are laid off. There is no sense having this economic condition, not because we want to deny people a fresh start, because it has been a policy of our bankruptcy laws to let people have a fresh start when they are in financial straits through no fault of their own—natural disaster, high medical bills, etc. —but when people have the ability to repay, then they should not get off scot-free and cause employees of businesses that go out of business to lose jobs.

We want to be fair to everybody. You can’t be fair to businesses and employers that lose their businesses and jobs when somebody who has the ability to pay bills gets off without paying those bills.

I was interested in what was going on in the bankruptcy system in the early 1990s when we set up this commission because there was a concern about fundamental fairness.

Why should people get out of repaying their debts if they can pay them?
credit cards and the junk mail we get is part of the cause that we have people in bankruptcy.

It also creates new protections for patients when hospitals and nursing homes declare bankruptcy. The bill makes permanent chapter 12 bankruptcy for family farmers and lessens the capital gains tax burden on financially strapped farmers who declare bankruptcy. This is a bill that the Senate passed with this overwhelming majority because my colleagues were probably tired of my mentioning so many times, but it was 83-15. So I think it is just common sense. Maybe common sense doesn't rule around this institution enough, but it is common sense that we move on to the next step. I urge my colleagues to vote in support of the cloture and in support of the Leahy-Hatch-Grassley substitute amendment.

I yield the floor, and since there are no other Members present, I suggest the absence of a quorum and that it be charged to Senator WELLSTONE. I have been advised by staff that that is the proper thing to do.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE, Madam President, I ask unanimous consent the order for the quorum call be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WELLSTONE, Madam President, my understanding is that there may be a number of other Senators who are coming to the floor to speak in opposition to the bankruptcy bill. Senator DURBIN may try to come down. So Senator DURBIN and others know, when they come I will simply break my remarks and others can speak at their convenience.

At the beginning of last week, the majority leader moved to proceed to the bill and I objected. Then we had a cloture vote on the motion to proceed. In the time I had, I implored, called upon, begged the Senate to step back from the brink and to decline to go to conference with the House on this so-called bankruptcy reform. I believe we would be making a grave mistake.

I am trying to figure out a way not to repeat the arguments I made last week. I will simply say I think this is a measure we are going to deeply regret. There are a lot of people—Elizabeth Warren comes to mind, law professor at Harvard—who have done some very important scholarship at Harvard in this area. I don't know that I can think of a single law professor who has argued in favor of this bill. Maybe there is someone somewhere. The opinion of the scholars in the field, the opinion of people who work in the field, is almost unanimous that this is a huge mistake.

We need to understand that bankruptcy is something most families do not think they will ever need. They do not think they will ever need to file for bankruptcy. But it is really a safety net, not just for low-income families but for middle-income families as well. Fifty percent of the people who file for bankruptcy do so today do so because of a medical bill. You have a double whammy. It is not just the situation where you have the expense of the medical bills but also it may be that, because of the illness or injury, you are not able to work so you are hit by both ways, or it might be your child’s medical bill, but also you may not be able to bring in the income because you are not able to go to work because you need to be at home taking care of your child. That is 50 percent of the people. We are not talking about deadbeats.

Frankly, most of the rest of the cases can be explained—it should not surprise anybody—by loss of job or divorce. These are the major explanatory variables we have argued will bankrupt, file for chapter 7. The irony of it—and I tried to make this argument last week as well—is that for a long time my colleagues were facing a problem that did not exist, that is to say, they were trying to deal with the abuse, and all the ways in which people were gaming the system in American bankruptcy, but they came out with a record that said that is 3 percent of the debt. So let's come out with legislation that deals with that debt, but let's not have legislation where people who find themselves in terrible economic circumstances no longer are able to rebuild their lives, all because of a small number of people who abuse the system.

Moreover, actually the bankruptcies were going down. So quite to the contrary of the claim we had this rash of bankruptcies and people no longer felt any stigma or shame and people were no longer restrained, none of it really held up very well if you closely examined the arguments.

Now what we have, in case anybody has not noticed, is an economy that is leveling off with a turn downward. It is not the boom economy we saw while the Presiding Officer's husband, President Clinton, was President of the United States of America. It is a different economy now. There are going to be more people who will lose their jobs and deal with the 3 percent, but let's face with these difficult economic circumstances through no fault of their own. We are going to make it well nigh impossible for them to rebuild their lives.

Madam President, I argued last week that we are hardly talking about deadbeats. This bill assumes people who file for chapter 7 are deadbeats and they are not. The means test aside, there are 15 provisions in the House and Senate-passed bills that will affect all debtors, regardless of their income—15 provisions. The means test will not protect them. The safe harbor will not protect them. These provisions are going to make bankruptcy relief more complicated, more expensive, and therefore harder to achieve for debtors—again, regardless of income. That means they will also fall the hardest, in terms of the people who will be most affected by this legislation, on low- and moderate-income families.

The irony is that those who advocate for this bill justify it by arguing that we need to go after the wealthy deadbeats. But if the cost of filing for bankruptcy doubles, which is exactly what it will be in this bill, who gets hurt the most? A middle-income family who had to save for 6 months, under current law, to pay for an attorney and for filing fees, or a multimillionaire like the ones the proponents cite in this statement? It just makes no sense.

There will be no problem for millionaires who are gaming the system. They are not the people who get hurt by this legislation. This legislation is the most harsh on the most vulnerable.

I am here and tried to make the case that this couldn't be a worse time to do this in terms of where the economy is headed.

So while the bill would be terrible for consumers and for regular working people, I am here and tried to make the case that this couldn't be a worse time to do this in terms of where the economy is headed. Its effects will be all the more devastating now that we have a weakening economy.

Colleagues, you are going to regret this.

It boggles the mind that at a time when Americans are most economically vulnerable and when they are most in need for protection from financial disaster we would eviscerate the major fiscal safety net in our society for the middle class. It is the height of insanity that we would be contemplating doing what we are doing right now given what is happening to this economy.

Colleagues, I couldn't support this legislation in the best of times. Even in the sunniest of economic circumstances, there are many families who are down on their luck and who are sent to the sidelines. Bankruptcy relief lets these families rebuild their lives again. It is a little bit like “there but for the grace of God go I.”

I think Time magazine had a series which was just a blistering attack on this bill. They did it in two ways. They did it, first of all, by talking about what this legislation means in times—which quite often on the floor of the Senate we don't make those connections as we should—to a lot of these families and what happened to these families because of their economic circumstances. They did not ask that their child be stricken by a terrible illness. They did not ask for the physical pain. They did not ask for the economic pain. But we are going to make it harder for them to rebuild their lives. They do not ask to be laid off. People do not ask to be laid off. They do not ask that their families be shredded because there is a divorce. You wish it would not have to happen. But it does happen. Sometimes
someone is at fault and sometimes no one is at fault, but it happens.

It is usually the woman who is the one taking care of the children, and she doesn’t have the income she once had. These are the kinds of citizens who file for bankruptcy relief. That is why every labor organization, civil rights, women’s, and consumer organizations in the country and more—religious organizations—oppose this legislation.

There is a pretty strong testimony to the absolutely sickening power of the financial services industry in Congress. We wouldn’t be doing this otherwise.

I did not say this is a one-to-one correlation. Anyone can play the game that there is this way but not the other. You are in the pockets of the financial services industry. That is not the argument that I make. Everybody can say that about everybody who votes in the Senate on every issue.

What I am saying is not at the personal level but at the institutional level in terms of who has the lobbying coalition, who is ever present, who has all the financial resources, and who has the political power. This industry has a heck of a lot more power than ‘ordinary consumers and ordinary citizens’ who are the very people we ought to be representing.

I want to make it clear that this is not a debate about winners and losers because we all lose if we take away some of the critical underpinnings that shore up working families. Sure, in the short run big banks and credit card companies take their profits. But in the long run, it is going to be ordinary families and entrepreneurs—all businesses—who take the risk and who are going to pay the price.

This isn’t a debate about reducing the high number of bankruptcies. In no way will this legislation do that. Indeed, I would argue that by rewarding reckless lending that got us here in the first place, you are going to see more consumers condemned by debt.

By the way, there isn’t hardly a word in this legislation that calls on these credit card companies to be accountable. It is all a one-way street.

This debate is about punishing failure—whether self-inflicted or unconstrained and unexpected. This is a debate about punishing failure. If there is one thing that our country has learned, punishing failure doesn’t work. You need not only to prevent abuse. But you also need to lift people up when they stumble and not beat them down.

I thought I made a pretty good case last week. I didn’t think it was really necessary. I think it is going to go through. But, darn it, there ought to be some discussion before the Senate about what we are doing.

What do the proponents say? My friend from Alabama got up and complained that I was taking on or presenting this critique of the big banks and credit card companies. He said this is a bankruptcy bill, and it only deals with the bankruptcy code and bankruptcy law reform. Therefore, holding the lender accountable is not appropriate.

That was one criticism. It sounded a little bizarre to me, as much fondness as I have for him. I think it sounds kind of bizarre to most common sense Americans in Minnesota who reach in their mailboxes every day of the week and pull out a handful of credit card solicitations. But apparently some of my colleagues see no connection whatsoever between the irresponsibility of the lenders and the high number of bankruptcies. That is preposterous.

The reason colleagues do not see any connection between the irresponsibility of the lenders and the high number of bankruptcies is because they don’t want to see any connection because these folks have a lot of clout and a lot of power.

Both the House and the Senate bills basically give a free ride to banks and credit card companies that deserve much of the blame for the high number of bankruptcy filings because of their lose credit card standards. Even the Senate bill, which is better than the House bill, does very little to address this problem. Some minor disclosure provisions in the Senate bill. But even those don’t go nearly as far as they should. Lenders should not be rewarded for reckless lending.

Where is the balance? If you are holding a debtor accountable, why are you not holding lenders accountable in this legislation?

Let me just give you some examples of some of the poor choices that can be made. In this particular case I am talking about the House bill and not the creditors makes no sense whatsoever.

The goal of this bill was supposed to be to reduce bankruptcies. That is why the big banks and credit card companies have been pushing for it. They are the only ones pushing for it. I am hard pressed to find one bankruptcy judge in the United States who supports this legislation. I am hard pressed to find one bankruptcy expert in the United States who supports this legislation. This legislation was written by and for the lenders. It is that simple.

Maybe it is different in Rhode Island; I doubt it. I can’t remember a conversation in a coffee shop anywhere in Minnesota, be it metro or be it in greater Minnesota, out in rural Minnesota, where people have rushed up to me and said: What we want you to do is pass this bill by September 30th. I am hard pressed to find one bankruptcy expert in the United States who supports this legislation.

In June of 1999 the Office of the Comptroller of the Currency reached a settlement with Providian Financial Corporation in which Providian agreed to pay at least $300 million to its customers to compensate them for using deceptive marketing tactics. Among these were bailing customers with “no annual fees” but then charging an annual fee at the time of the statement that would nullify the $156 credit protection program—coverage which was itself deceptively marketed. The company also misrepresented the savings their customers would get from transferring account balances from their bank accounts.

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

That is unbelievable. I will tell you something. With the one-sidedness of this legislation, there is no wonder. Again, I am not attacking colleagues on a personal level but at an institutional level. No wonder ordinary people think the political process in Washington is dominated by powerful folks and that powerful interests are opposed to them.

How else can one explain the complete lack of balance? July 2000, North American Capital Corporation, a subsidiary of GE, agreed to pay a $250,000 fine to settle charges brought by the Federal Trade Commission that the company had violated the Fair Debt Collection Practices Act by lying to and harassing customers during collections.

Another example: October 1998, the Department of Justice brought an anti-trust action against Transcard, the two largest credit card associations, charging them with illegal collusion that reduced competition and made credit cards more expensive for borrowers. To make the argument that when we look at bankruptcies we only hold those who are the lenders accountable and not the creditors makes no sense whatsoever.

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about all of the health insecurities they feel because they don’t believe they have good coverage or because it costs much more than they can afford.

I hear veterans who are concerned about veterans health care. This Thursday morning, I was meeting in the veterans committee, which Senator Rockefeller chairs, on homeless veterans. I am guessing that probably a third of all the homeless males—too many are women and children—are veterans of them all are Vietnam vets. Many of them are struggling with PTSD. Many are struggling with substance abuse. It is a scam that these veterans are homeless in America.

I hear discussion about why can’t we do better for veterans. I hear concern about the environment. I hear concern about energy costs. I hear concern about a fair price in farm country. I hear about how hard it is to have access to capital. I don’t see the ground swell of support all around the United States for this piece of legislation.

What in the world are we doing debating the bankruptcy legislation in the Senate today? Why is this legislation out here? What kind of good does this do for the people we represent? It does a lot of good for the credit card companies. It does a lot of good for the financial industry. I know that. I would just like somebody to explain to me how it does a lot of good for ordinary people, those folks who don’t hire the lobbyists, the people who don’t have the big bucks, the people we see every day. I hope we see them every day when we are back home.

It is ridiculous on its face that we can divorce the behavior of the credit card companies from the high number of bankruptcies. Indeed, all the evidence points to the fact that the lenders and their poor practices are a big part of the problem. It is just outrageous we don’t take them on.

I call this going down the path of least resistance. It is easy to pass legislation that has such a cruel and harsh effect on people who are being put under because of medical bills or because they have lost their jobs. They don’t have that much economic clout, and they don’t have that much political clout. As a matter of fact, I will come up with an amendment on our bill sometime when there is an appropriate vehicle that will go after the credit card companies and the lending services’ lending practices; we will have a vote on it. Then it will be more difficult because we have to go against those interests, but we ought to at least have some balance.

In that week, my friend from Alabama stood up and said that the core of this bill is the means test. All the means test does is force those folks with high incomes to go to chapter 13. What is wrong with that? Therefore, the bill doesn’t hurt low-income people.

The means test is only 9 pages of a 200-page bill. If the means test were all this bill consisted of, then it would have passed 12 years ago. We have been trying to hold this matter up for 2½ years, something such as that.

The bankruptcy bill purports to target abuses of the bankruptcy code by fraud, deadbeats, and deadbeads who make up 3 percent of the filers, according to the American Bankruptcy Institute. Yet hundreds of thousands of Americans file for bankruptcy every year, not to game the system but because they are made insolvent by their medical debt. These include, but are in addition to, the means test.

Neither the means tests nor the safe harbor work. The other provisions of the bill, the majority of the new burdens placed on debtors under both bills. Debtors will face these hurdles to filing regardless of their circumstance.

The final point made by proponents last Wednesday by Senator Duren from Alabama stood up and said that the majority of the new burdens placed on debtors under both bills. Debtors will make it less likely that his ex-wife or kids will get anything.

Under current law, an ex-spouse postbankruptcy can often have few other debts; they have all been discharged. After his other debts are gone, the ex-spouse can devote more of their income to their support obligations. In this way, the current law actually helps women and children because it places child support as the first priority debt to be paid. First, it is the case that this is a useful change in the law as far as it goes. Unfortunately, it doesn’t go very far. Child support is already nondischargeable in bankruptcy. Under this bill, a woman who is owed child support is more likely to receive that support from her deadbeat husband while he is going through bankruptcy. But once he emerges from bankruptcy, his other debts will be all that will make it less likely that his ex-wife or kids will get anything.

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Under current law, a creditor, if the debtor is a scofflaw and/or a person who must file because they are made insolvent by their medical debt, These include, but are in addition to, the means test.

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Very significant is the Kohl amendment on the homestead exemption. With its adoption, the Senate takes on wealthy debtors who file frivolous claims and shield their assets in multimillion-dollar mansions. This is a real abuse, and I think the $125,000 ceiling should be raised to $250,000. I think the President and the Republicans in the House of Representatives, is going to make a very harsh, punitive piece of legislation that sometimes as I look at the values and policy preferences of this administration, I really miss the Clinton administration. I certainly miss the President and the Republicans in the House of Representatives.

The White House has all said they will sign the bill, as long as it protects wealthy deadbeats and their mansions. That is the position of the White House: We will sign this piece of legislation as long as you guarantee us that you will protect the wealthy deadbeats and their mansions—no damage to the truth—and I think people in Rhode Island do not know about this legislation or any of the details. I promise you, they will be deeply offended with this position, that a whole lot of people—because a few people game the system. True, a small percentage. Every independent study says that regarding bankruptcy. If we pass this piece of legislation that basically makes it too difficult to rebuild for a lot of good people, middle-class people, low- and moderate-income people, who, through no fault of their own—there but for the grace of God go I—and you name it, find themselves in brutal circumstances, job, medical bills, you name it, find themselves in brutal circumstances, job, medical bills, you name it, find themselves on economic grounds. It does not make any sense whatsoever. That is the position of the White House.

I am afraid, given what wealth and power get you in this town, given the kind of backing that all the proponents of the bill about curbing abuse of the deadbeats they would rush to close this loophole. Not so. Senator Kasten, had to drag the Senate kicking and screaming to plug this obvious gap. Unfortunately, the House and the Senate conferees will stick with the President's proposal to allow the courts to do what will be a great benefit to the wealthy deadbeats and their mansions.

I have to worry about what is going to happen. I can block the Senate majority leader on this question. This legislation should not be moving forward to conference. The Senate has passed better bills. Every time it emerges from conference, it is a nightmare. I hope that doesn't happen again, and I certainly hope all of the Senate conferences will stick with the Senate position on the Kohl amendment, the Schumer amendment, and other efforts which have made the bill at least slightly better.

This time, I am sorry to say, this legislation is much more likely to become law. With this President, this ridiculous giveaway to the big banks and credit card companies is going to make it. To the everlasting credit of President Clinton, he vetoed this legislation. Look, I was certainly one of his critics in the Senate. I have to admit that sometimes as I look at the values and policy preferences of this administration, I really miss the Clinton administration. I certainly miss the President and the Republicans in the House of Representatives.

At the same time, this piece of legislation making it very difficult to rebuild their lives—people who have been put under because of medical bills, for example. On the other hand, they have no problem with folks who want to protect their property and protect their income by buying these multimillion-dollar mansions in States in the country and shielding themselves from any obligation.

I don’t get any weirder than that—this generation, that is, if the Senate conferences—I don’t have any illusion: this bill will go to conference—knuckle under to the House on any of these issues. I think the Senate conferences should be trying to improve this bill further in conference. I think that is Senator Leahy’s intention, and I salute him for it. But I certainly hope you can get the backing of the Senate conferences.

I have to worry about what is going to happen in the conference committee. Look at the past. Look at the evidence from the past. Since 1998, the House has passed terrible bills. The Senate has passed better bills. Every time it comes to conference, it goes to a nightmare. I hope that doesn’t happen again, and I certainly hope all of the Senate conferences will stick with the Senate position on the Kohl amendment, the Schumer amendment, and other efforts which have made the bill at least slightly better.

This time, I am sorry to say, this legislation is much more likely to become law. With this President, this ridiculous giveaway to the big banks and credit card companies is going to make it. To the everlasting credit of President Clinton, he vetoed this legislation. Look, I was certainly one of his critics in the Senate. I have to admit that sometimes as I look at the values and policy preferences of this administration, I really miss the Clinton administration. I certainly miss the President and the Republicans in the House of Representatives.

The White House has all said they will sign the bill, as long as it protects wealthy deadbeats and their mansions. That is the position of the White House: We will sign this piece of legislation as long as you guarantee us that you will protect the wealthy deadbeats and their mansions—as in Texas.

I am afraid, given what wealth and power get you in this town, given the kind of backing that all the proponents of the bill about curbing abuse of the deadbeats they would rush to close this loophole. Not so. Senator Kasten, had to drag the Senate kicking and screaming to plug this obvious gap. Unfortunately, the House and the Senate conferees will stick with the President’s proposal to allow the courts to do what will be a great benefit to the wealthy deadbeats and their mansions.
The PRESIDING OFFICER (Mr. REED). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the quorum call be charged to both sides.

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

Mr. WELLSTONE. My understanding, Mr. President, is Senator HUTCHISON of Texas and Senator BROWNBACK want to speak, and if they do, I allocate to each one of them 10 minutes. My understanding is Senator DURBIN also wants to speak. I allocate to the Senator the rest of my time.

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

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

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

Under the previous order, the Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I rise today, as I did earlier this year, in opposition to the Senate-passed bankruptcy bill, Senate bill 420. It is likely this week we will appoint conferees and start the debate about this bankruptcy bill.

Let me say at the outset, I support bankruptcy reform. A few years ago, as a member of the Judiciary Committee, I was the ranking Democrat on the subcommittee that produced a bankruptcy bill. At the time, we saw a rather dramatic increase of public bankruptcy filings across America, and there also appeared to be, and I believe there are, serious abuses where people are going to bankruptcy court to be discharged from debts when, in fact, they could pay many of those debts.

When a person is able to pay their debts and does not, for whatever reason, the economy absorbs it and all of us as consumers are taxed or end up paying what cost of those unpaid debts. It is passed along in one version or another.

So bankruptcy reform in and of itself is warranted and should be part of our agenda. I was happy to be part of the creation of a bill a few years ago which dealt with changing our bankruptcy code.

Bankruptcy law is one of the most arcane laws in America. Although it affects probably more Americans than we imagine, it is an area of the law to which many people pay attention. Almost by accident, I took a course in bankruptcy law in law school at Georgetown. As a practicing attorney in Springfield, Ill., I was appointed as a trustee in bankruptcy for a local truckstop that was going bankrupt. Those were my two brushes in the law with bankruptcy. Other than that, I didn’t include it in my practice, and I paid little attention to it. When the time came to debate it in the Senate Judiciary Committee, it turned out I had more experience in bankruptcy law than any other Senator. It is a rather obscure area of the law that, unless it is focused on, is difficult to understand, and more difficult to suggest meaningful reforms that make a difference.

What I tried to do in the earlier debate on the bankruptcy law was to suggest that if there are abuses, there should be reforms so people do not abuse the bankruptcy process. But we should also look to the other side of the ledger. There are abuses on the credit side, on the financing of debt side, which also should be addressed as part of bankruptcy reform. I believe this bankruptcy bill, as drafted, doesn’t go in and abuse the bankruptcy courts, is a good one as long as we couple it with an admonition, a warning, a prohibition in the law, if necessary, against those who abuse the credit side.

I still recall where I have repeated it often, those who came to see me first about bankruptcy reform—these are people from banks and financial industry and credit card companies—said it was of benefit to the economy. They didn’t want to do it, they didn’t want to admit they had done it. They were embarrassed by the experience. Now, in the words of those who came to see me, bankruptcy has lost its moral stigma.

I am not sure if that is altogether true. In fact, I question whether it is true except in isolated cases. I said back to them: Do you believe there is a moral stigma attached to credit practices, as we discuss them?

The fact is, when I went to a college football game in Illinois and went up the ramp, and as I started to go into the stadium in Champaign-Urbana there stood someone offering me a free T-shirt for signing up for a University of Illinois credit card sponsored by one of the major credit card companies. Let me make it clear, they were not looking for me at the top of the stairs. They were looking for students to try to get them to sign up for credit cards and get concessions. Where is the moral stigma there? Who is asking the hard question whether that student can pay off a debt?

At the University of Indiana a few years ago, the dean of students said the No. 1 reason kids were dropping out of school and taking some time away from school was to pay off credit card debts. So I say to the credit industry, when we are talking about moral stigma, do you think twice about offering credit to high school seniors?

I suggest to anybody listening to this debate, go home tonight and open your mail. How many new solicitations will you receive for a new credit card? Literally hundreds of millions of them descend on America. Are hard questions asked whether a person is credit-worthy? Perhaps. But in many cases, no.

You see people getting deeper and deeper into debt, finally being pushed over the edge into bankruptcy court. I suggest as part of this bankruptcy debate, let’s ask the question on both sides: Who is abusing the bankruptcy court? But also, who is abusing when it comes to offering credit in the United States?

I think, to address bankruptcy reform in that context is an honest approach. It is one that I think is sensible and balanced. The bill I supported that passed this Senate a few years ago with 97 votes was a balanced bill. This bill we have before us is not. This bill, which has been pushed through by the credit industry, by the financial institutions, sadly, does not have the balance and substance that I think is absolutely essential.

I had hoped we would be able to come up with such a bill. That has not happened. We had a conference committee after we passed this bill a few years ago. It was a conference in name only because what it boiled down to was the Republican members of the conference committee did not invite the Democrats to attend. They sat down with the financial industry and reached an agreement they would write a bill and sail it away, and we left it, as we should have.

Fast forward a couple of years: Same experience, credit industry comes forward with a bill, they refuse to include in there protections for consumers when it comes to credit, and that bill died as well.

Now we are in the third chapter of this long saga and we are considering this bankruptcy bill, which is S. 420. The question is whether or not we will reach out a bill from conference that addresses some of the issues I have raised.

I think this bill has some serious defects and weaknesses. I am disappointed the Senate failed to take the opportunity to achieve meaningful reform on credit card disclosure and marketing practices.

There was a recent study by the Federal Reserve Bank in Boston. It concludes that the rise in personal bankruptcy in America is directly correlated to the increase in credit card loans outstanding—a direct relationship. So we see people getting deeper and deeper into credit card debt until a moment comes that pushes them over the edge. What is that moment? Perhaps it is when the debt becomes intolerably high, or the loss of a job, or a serious illness, or a divorce. These sorts of things push people over the edge and into bankruptcy court. But the reason they reach these terrible situations has a lot to do with credit card debt in America that continues to grow.

I was back in Illinois over the weekend and ran into a couple who started...
talking about some of the outrageous things happening to them. They told me a story about some of the things of which I was not aware. The fellow said:

Our family, like a lot of families, has several credit cards.

This is on a Friday night at the Navy Pier in Chicago. He pulled me over, and we weren’t even talking about bankruptcy. He said:

I wanted to ask you about credit card companies. Did you know if you fail to make a timely payment on one of your credit cards that the information is shared among the credit card companies? What happened is that I missed a payment on one of my furniture loans. As a result, my monthly interest rate on all my credit cards went from 12 to 20 percent. I called them and said I made timed payments on all these credit cards. They said, “But you missed your furniture loan over here.”

He said:

Is that right? Is that fair?

I said:

The sad reality is, that is probably part of your contract. I am a lawyer. When I flip over that monthly statement from the credit card companies—I have reached the point where I cannot even make sense of the fine print on the back of my monthly credit card statement. I imagine most Americans, when they sign up for a credit card or see the monthly statement, don’t say, “Okay, we are not going to be able to go out to the movie because I need to take the next half-hour and read the back of my monthly credit card statement. People don’t do that. But there are things going on with those credit cards that can severely disadvantage you.

We had an opportunity to do something about it in this bill and we did not do it. We did not do it. One of the things I pushed for I think is so basic, I cannot believe the credit card industry opposed it. Let me tell you what it is. If you fail to make a timely payment on one of your credit cards, who may in a bad month only be able to make that minimum monthly payment—that is a situation that families can face. But shouldn’t consumers be informed in America? When we talk about a bankruptcy reform bill, is it not possible that unspeakable frauds like credit card disclosure be part of that bill? The credit card industry said flat no, and it is not included.

Let me tell you another area that really rankles me. This is an amendment I offered to the bankruptcy bill here on the floor. It relates to a situation called predatory lenders. You read about them occasionally and see them on television. We see stories on some of the news reports. Here is what it is. You have people who prey on those who are elderly and not well informed and have them sign up for new debt on their homes, particularly for home improvements or vinyl siding or a new furnace or whatever it happens to be. They put provisions in those predatory loans that give them an opportunity to make extraordinarily high interest profits off those predatory loans, and they include other provisions called balloon payments and the like.

How many times have you read in the newspaper or watched on TV the story of a retired widow—and it has happened in the city of Chicago where I represent a lot of people—a retired widow who was safely in her little home for which she saved up for her life, and some smooth talker came by and had her sign up for what turned out to be a new mortgage on her home with really bad conditions and terms. So as time went on—usually the work turns out to be shoddy and the debt turns out to be intolerable, and it reaches a breaking point. When it reaches that breaking point, sometimes this person, in retirement, in their safe little home family, stands the risk of losing their home because of these predatory lending situations.

These are the most deceptive loans in America. They cost borrowers an estimated $11 billion each year in lost equity, back-end penalties, and excess interest paid.

The American Association of Retired Persons, the largest group of seniors in America, did a survey. Eight out of ten seniors over the age of 65 own their home free of any mortgage. That is good. It shows people have planned ahead. When they reach retirement, they want to have that home and not have to worry about a monthly mortgage payment. We want seniors to be in that position.

However, the unscrupulous lenders out there know those seniors have an asset and if they can get their hands on it, get their hooks into that senior, they set out to do that, and foreclosure is often the result when the senior fails to make these outrageous loan payments. The elderly person, the senior living alone or a person from a low-income neighborhood, can get a cold call from a telemarketer or a visit from somebody knocking on the door, telling them how they can get a new roof or windows: We can give you insulated windows with a little cheap loan; just sign up. It uses the unsuspecting victim in danger of losing their home. Almost before the victims know what hit them, they are whacked with outrageous fees, $8,000 or more, slapped with skyrocketing interest rates and battered into a financial hole they never get out of.

This is what happened to Janie and Gilbert Coleman from Bellwood. The Coleman’s purchased their home with a court settlement and had no mortgage payment at all. But this elderly couple with a 9th grade education had Social Security disability income and predators mortgage lenders moved in for the kill.

Although the Coleman’s were first able to meet the $200 monthly payments on a $12,000 loan, 8 years and 5 refinancings later they found themselves $130,000 buried in debt.

They borrowed $12,000. Over a period of 8 years, with all of the refinancing and all of the interest payments on this little home, the debt grew to $130,000. That is what I am talking about.

Six loans were made to the Coleman’s. Four of these loans were made by a national lender, Associates, including two loans made just seven weeks apart.

Associates repeatedly sold the Coleman’s insurance that they did not want or need. And twice they were charged more for fees and insurance than they received.

Associates, a lending arm of Citigroup, is now the target of a multi-million dollar lawsuit filed by the Federal Trade Commission. Associates earned over $1 billion in premiums last year but paid only $668 million in benefits.

This is a situation that is also going to illustrate what I am talking about. People like 72-year-old Bessy Alexander from the South Side who believed that she was getting a fixed rate...
but really received a mortgage with an interest rate averaging upward every 6 months—from an initial rate 10.75 percent to as high as 17.25 percent.

People like Nancy and Harry Swank of Roanoke, IL, who took a small loan from a local pawn shop. They paid it off and ended up with two loans, one at nearly 19 percent interest, totaling over $76,000, well above the $60,000 value of their home.

They spent six months buying for their $60,000 home. When it was all over, they owed $76,000 more than the value of their home.

People like 70-year-old Mrs. Genie McNab and other victims of predatory lending practices testified before the Special Committee on Aging in a hearing chaired by Senator Grassley.

If my colleagues have not done so already, I would encourage them to read the committee report from this hearing for a human face on this issue.

You ask yourself, what does this have to do with the bankruptcy bill that is before us? I will tell you what it does. In my amendment that if you have been guilty of violating fair credit practices, if you have taken advantage of people such as those I have described, if you are in a position as a company where you have used the law improperly and now have a foreclosure against someone who is going into bankruptcy court, we will not allow you to walk in and claim you have clean hands in bankruptcy court and take the home. Predatory lenders would not be put on notice that they have violated fair credit practices when they go into bankruptcy court and you take the home. They take their money. They make payments and force them into bankruptcy court and want the law also extend to creditors who walk into bankruptcy court, we will not allow them to do so. They take their money. They make payments and force them into bankruptcy court and want the law also extend to creditors who walk into bankruptcy court, we will not allow them to do so.

Predatory lenders said when he was as a student that they would be testifying behind the screen so that the television cameras couldn’t see his face. He was so embarrassed and afraid that he didn’t want to say this in public.

My perfect customer would be an uneducated woman who is living on a fixed income, hopefully from her deceased husband’s pension and Social Security, who has her house paid off, is not living off of credit cards, but having a difficult time making ends meet. And who must make a car payment in addition to her credit card payments.

There you have it. When you are out there looking for your prey as a predatory lender, you are looking for. Your hope is that you push them so deeply into debt that they make all the payments they can until they reach the breaking point and then they go into bankruptcy court and you take the home.

Oh, what a happy day it is going to be for this predatory lending offices just picked up another home from another widow in bankruptcy court.

When I had to stand on the floor, I basically wanted to spoil this party that these predatory lenders have at the expense of senior citizens across America. My amendment failed by one vote. This bill does not address the problem. I think we can call the bankruptcy reform and not offer that kind of balance, as far as I am concerned, is disgraceful.

We have seen the percentage of these predatory loans in precincts across the United States. It seems over and over again that these situations are where elderly people have become victims. Predatory lending is an epidemic.

Seven years ago, mortgages to people with below average credit was a $35 billion business. Today, it is a $140 billion business.

Who are we talking about? We are talking about somebody’s parents, or grandparents, or the people I think we ought to be protecting those people instead of preying on them as it does.

There is a study I would like to share with you entitled “Unequal Burden: Income and Racial Disparities in Homeownership and Bankruptcy.” We found that: subprime loans are five times more likely in black neighborhoods than in white neighborhoods. In addition, homes in minority neighborhoods are worth 50 percent less than similar homes in white neighborhoods. When you look at people that are living in poverty, the median income for families in poverty in the United States is $18,000. The median income for families living in poverty in the United States in 2005 was $11,000. The median income for families living in poverty in the United States in 2005 was $11,000.

The Senate Banking Committee chairman, is going to have hearings this month on lenders that take advantage of vulnerable borrowers. I commend him for his leadership on this important issue.

Why wasn’t this included in the bankruptcy bill? We have Senators standing up and saying: We need to protect these predator lenders. That is exactly what happened. I lost by one vote.

Let me talk to you for a moment about credit card disclosure and whether or not there is more information that we can ask for so we can have some balance when it comes to credit card predators across the United States.

There are 78 million creditworthy households in America. Remember that number—78 million. Each year there are over 34 million credit card solicitations. As I said, go home tonight and look through your mail. You are going to find them. If you are not home tonight, it will be there tomorrow night asking you to sign up for a new credit card. They are coming at you in every direction—not just through the mail, but in magazines, television; wherever you turn, they want you to sign up for more credit cards. Frankly, I think you understand what they are looking for.

One of the things they like to do is go after college students. There is a brand loyalty here. Major credit card companies think that when they set up a college student for a credit card, the college student will stick with their credit card for the rest of their lives. They do not ask hard questions as to whether the student will pay off the debt.

One of the things that I suggested about the minimum monthly payments was rejected by the credit card industry. I don’t think it is a difficult thing to calculate. If you were to pay a 2 percent monthly minimum on a balance of about $3,000, it would take you 39 months to pay it off. We are talking about over 7 years with your minimum monthly payment.

I am not for credit rationing. I believe credit cards have done quite a bit of good for a number of people. The credit card industry knows the fact that 10 or 20 years ago it might have been impossible for someone such as a waitress to get a credit card. Today, they can in America. That is a good thing. There are times when credit cards are invaluable for individuals and
their families. But we see that the credit card industry is not just offering credit to people who otherwise might not have a chance to get it; we see them overwhelmingly offering credit way beyond the means of people to pay it off. I want to make that statement should be a lot more informative.

Let me also go to one other issue before I give the floor to my colleague from Kansas. One of the issues which is part of this is the so-called homestead exemption. The homestead exemption is this: If you go into bankruptcy court and you say you have more debts than you can possibly pay off, you list all of your debts and all of your assets. And many States have said one of the things that you can able to retain is your homestead or your home. The value that you are able to keep depends on the State in which you live. So each State kind of defines what a home can be worth to be exempt from bankruptcy.

On its face it doesn’t sound unreasonable that people would be allowed to keep their home even if they are bankrupt. You wouldn’t want them to be homeless on the street. But there is such a gross disparity in the exemptions States offer for this homestead that we have seen some terrible and outrageous abuses.

There was a fellow who was the commissioner of baseball, Bowie Kuhn, who many years ago decided to file for bankruptcy. Before he filed, he moved to Florida. Why did he move to Florida? He bought himself a mansion worth hundreds of thousands of dollars. Then he filed for bankruptcy in Florida, and he was able to keep all of the money that he put in that mansion set aside and not opened to the creditors because Florida had a very generous homestead exemption.

The same is also true in many other States. One of the famous actors, Burt Reynolds, did the same thing; he bought himself a big ranch worth over $2 million and then filed for bankruptcy saying that he had protected his assets. That is allowed; that is part of State law.

The PRESIDING OFFICER (Ms. LANDRIEU). The time of the Senator has expired.

Mr. DURBIN. I ask unanimous consent for an additional 3 minutes.

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

Mr. DURBIN. If we are going to have real bankruptcy reform, then shouldn’t we have some consistency? The poor person I mentioned earlier who goes into court suffering from a predatory lender and is about to lose her home, for which she saved for a lifetime, is not going to have the same advantages that this actor and this commissioner of baseball had when it comes to a homestead exemption.

If it is real bankruptcy reform, it should address all levels of income in this country. It should be fair to every one. This bill is not.

O.J. Simpson filed for bankruptcy after being ordered by the court to pay a $33.5 million judgment. He got to keep his $650,000 Los Angeles home. These poor people I talked about in Chicago who are about to lose their little home over predatory lenders don’t have the advantage O.J. Simpson had in California. That isn’t fair.

Actor Burt Reynolds’ home was worth $2.5 million. He got to keep that. Oneetime corporate raider Paul A. Bilzerian kept his extravagant 11-bed-room, 36,000 square foot estate, the largest in the Tampa Bay area. It had a basketball half court, movie theater, nine-car garage, elevator, and it was worth $5 million. Because Florida law is very generous to wealthy people filing for bankruptcy, he was able to keep his home. The person I talked about in the city of Chicago didn’t have that benefit.

Elmer Hill, Tennessee coal broker, 3 days before being ordered to pay $15 million to a company he defrauded, shielded his assets by purchasing a Florida home for $1,650,000 and paying $75,000 to furnish it. Then he declared bankruptcy. The Florida Supreme Court recently ruled he was permitted to keep his home. The court said that “a debtor with specific intent to hinder, delay or defraud creditors is presently able to shield his or her assets in their home.

Senator Kohl of Wisconsin offered an amendment to reform this. I supported it. The amendment passed. But, the interests that support wealthy people here want this provision stripped in conference.

When we consider bankruptcy reform, should we not have basic fairness? Shouldn’t all families across America, regardless of their wealth and income, be treated fairly? Sadly, this bill does not.

I will not be supporting this bankruptcy bill in its current form.

I ask unanimous consent that Senator Torricelli be allocated 10 minutes of the time controlled by the proponents of the substitute amendment.

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

Pursuant to the previous order, the Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, I appreciate the comments of my colleague from Illinois who I have some agreement with on the bankruptcy bill, although not on the homestead provision. I want to make clear why I have a different viewpoint.

Overall, I believe the House version of this legislation, the bankruptcy legislation, is a good piece of legislation with which we can work. I have worked hard on it. We have worked hard for a number of years on getting bankruptcy reform. The last conference report on bankruptcy passed with over 70 votes, which is a substantial vote and the agreement of a number of people.

One of the key provisions that were worked out on this overall bankruptcy legislation was the homestead provision. That is key to me. It is key to my State because of the nature of the homestead provision throughout bankruptcy and the bankruptcy code’s history, how we have left that to the States. In previous bankruptcy bills, we have constantly left the homestead provision to the States, which is where it should be. The States should determine this.

In seven States in this country, including my own of Kansas, there is a homestead provision that is in our State’s constitution. The founders of our State saw as so important the protection of the homestead that they provided in the constitution of our State a protection for the homestead of 160 acres, 160 contiguous acres to be in a farm, or one acre in town of contiguous acreage in protecting that home. They said this is something that is central to us. I will talk about why that is central.

It is central because farming, agriculture has been such a part of our State’s past. A number of farmers would borrow to protect, not against the homestead; they would borrow against other areas for the farm and leave the homestead out of it because if they would lose the farm, they could at least protect their home and 160 contiguous acres.

I used to be a lawyer in private practice prior to getting involved in public office. As such, I would examine a number of abstracts. Abstracts are titles to the land. They are histories of the land—who used to own it, who had a mortgage against the land, who had a lien against the property. You would examine that to see if there was clear title to the land.

You could track a piece of property and see the farm cycles in it. If the years were going well, there wouldn’t be a mortgage against the property. If it was going poorly, there would be a mortgage against the property. But almost always they would leave clear and free, if they possibly could, that homestead because just as sure as you would get one bad year, you might get 2, and then you might get 3, and then you would lose the farm.

The history would follow the farm cycle. Just as farm prices and farm production would go down, mortgages would mount up. And then you would have a loss of the farm.

They would set aside and protect this homestead. They wouldn’t put a mortgage against it. If at all possible, because our State’s constitution said they could keep the homestead to start farming again. If they got on the bottom of the trough, lost the rest of the farm, lost livestock, they could still have that home and 160 acres to be able to start farming again and build back.

We built this into our State’s constitution. Seven other States did. It was an important part of maintaining that farming tradition and of keeping people on the farm. That is what it did.

In the last cycle we went through, which was the early 1980s, I was still practicing law at that time. We continued to have that at time the homestead
provision for family farmers, where you would leave within that a home and 160 acres. There are a number of people in Kansas who are still farming today because they didn’t mortgage the homestead. They lost much of the rest of the farm in the downturn of the farm economy. We have re-built around that home and 160 acres and start and move forward again.

It was used then. It will be used again in the next farm cycle, if we don’t take that right away in the Bankruptcy Reform Act of 2001.

What has taken place is that this has been a long, hard-fought battle over the past several years—the bankruptcy reform that we have put forward. We worked out a compromise in the House that protects the sanctity of those State laws on homestead provisions and allows accumulation of a certain amount of property. It doesn’t allow fraud. If you are trying to move money into the homestead within 5 years of bankruptcy, you can get pulled back out in bankruptcy proceedings. It doesn’t allow you to fraudulently say: I am going to cash out this asset and put that into my homestead as a way of building up equity on the homestead. That is what is being done by the court. This was a carefully compromised package that came from the House bill.

The problem is in the Senate bill where it takes away the States rights to establish a homestead. There was an exemption in the provision carved out for the family farm by Senator Kuhl, for which I am grateful; but it wasn’t within the home in town. So now you have the Federal Government, for the first time in 120 years, telling the States what is the homestead. They have not done that for 120 years. We should not do that now. This is the wrong time for us to start; it is the wrong thing for us to do to take that away.

As I understand it, we are going to vote on inserting the Senate package, which takes away this homestead right from the States. That is in the Senate package on which we will soon be voting. I am opposed to doing that, and I will vote against that bill if it continues to maintain that type of home- stead provision which takes away the homestead rights from the States and puts it into Federal bankruptcy law. That is against our State’s constitution and for the State I represent, and for the seven other States in this country. We should not be doing that. It is a bad precedent to start.

I have no doubt that if we start it in this bankruptcy reform, in the next bankruptcy reform we do we will go after the family farm homestead provision because there will be some allegation of, OK, there was somebody who shielded assets here and they were able to protect too much, going through a family farm type of setting, and then we would start talking about it more.

What has taken place is that there are not abuses find in most of the lawsuits—the vast majority—that there are not abuses taking place to the homestead provisions. It would be wrong for us to say we have a couple of examples, and because of the abuse in a couple of cases we want to take this right completely away from the States for thousands of people, hundreds of thousands of people who have depended upon this for the past 120, 130 years.

I think particularly if we start down this road of Federalizing the homestead provision, while we may not hit the family farmers now, we will the next time around, and that would be a wrong way for us to go.

I want to make it clear on this point again that if there is fraud involved, if somebody is taking assets from another area and putting them in the homestead to hide from a creditor, that is covered by the law. You cannot do that today. You cannot do that under the provision that is in the House bill, and we should not allow people to do that. So we are not talking about fraud here. Fraud should not, and we should not take away this homestead provision from States on homes and family farms because of allegations of examples that don’t even apply in the situation. This is not fraud—what I am talking about.

This is not fraud. It is a homestead on 160 acres in the country, if you are a family farmer.

The Kohl amendment in the Senate version is one that I vigorously oppose because it jeopardizes the compromise that was worked out last year in the bankruptcy bill, and I believe it jeopardizes the fate of the entire bill, as well, because of what it does to the homestead provision. That is what this amendment is about.

I urge my colleagues to vote against inserting the text of the Senate bill into H.R. 333 and to support, instead, the House version, which contains the compromise language with which I am comfortable, and with which I believe Senator Hutchinson of Texas is comfortable as well. It maintains the homestead provision and authority in the States, with some limitation on it, which is a concession on our part.

The Senate bankruptcy bill, if it is in the House version with the Kohl amendment included, radically alters the homestead provision from what was drafted last year. It is in this carefully balanced legislation we have before us. If the Senate language is put in, with the Kohl amendment that takes away the homestead rights from the States, I will be vigorously opposing this legislation, as will a number of other colleagues who have similar homestead problems, given the constitutions within their States. I urge my colleagues to vote against doing that.

I yield the floor and I suggest the absence of a quorum.
The Department of Justice has estimated that 182,000 people per year, people currently filing under chapter 7 to avoid their debts, properly belong in chapter 13 where they will repay part of their debts. The difference is not insignificant. If those 182,000 people were moved into chapter 13 and were paying those debts which were affordable, $4 billion would be returned to creditors.

Critics of the bill argue that $4 billion would only enrich large financial institutions, transferring money from people who live marginal economic lives to wealthy institutions. That claim ignores the fact that much of the debt burden that is avoided by chapter 7 filings also goes to local contractors—the mechanic on the corner, the small retailer, the family business which provides services or goods, only to face someone entering into bankruptcy and avoiding paying their debts. This creates a situation where one debtor passes a debt on to a family business and causes that business to go bankrupt, and then another family business. It is not fair, and it is not right.

Critics have also argued that bankruptcy reform will deny poor people the protection of the bankruptcy system. The bankruptcy system has always been an important part of American life, giving people a second chance, ensuring that because someone has made a mistake or, more likely, through a problem of health in the family or divorce, illness, they are not doomed by a chance of fulfilling a prosperous life.

This claim simply is not true. No American is being denied access to bankruptcy. Indeed, the bill contains several provisions to ensure that no one genuinely in need of debt cancellation is prevented from receiving a fresh start under chapter 7. It is done in several ways.

First, the bill gives the judge discretion in the debtor’s special circumstances under which they are unable to meet a payment plan, an escrow clause where a judge can always ensure that a person with no means is given chapter 7 protection.

Second, it contains a safe harbor to ensure that all debtors earning less than the State median income will have access to chapter 7 without qualification. If one is under the median income, one is in chapter 7, period.

Third, the bill adds a floor to the means test to guarantee that debtors unable to pay more than $5,000 of their outstanding debt will not be moved into chapter 13: Again, protection for people of modest means.

All this gives people of lower income a chance to sweep away their debts and to start again an American life. It has always been our way.

Finally, probably the most unfair criticism and the one to which I am most sensitive is the issue of whether this adds a new burden to women and children. The bill contains language that Senator HATCH and I offered in an amendment to protect exactly this element of our society: single parents and children in need of protection.

Under current law, when it comes to prioritizing which debts must be paid off first, child support is seventh in bankruptcy court. It ranks after rent, storage charges, accountants fees, tax claims, or other claims by government, and that is wrong.

Not only does this new bill not make it worse, we make it better. Under the bill, child support is moved to where it belongs: First, ahead of government, therefore, an important financial institution. The obligations of a father or mother to their child will never be put behind another debt.

Finally, this compromise deals with one other area of the law that is equally important. We were not going to reform bankruptcy laws without doing something about the overreaching efforts by the credit card industry itself. The credit card industry yearly has more than $4 billion in solicitations to Americans, encouraging them to incur debt. That is 41 mailings for every American household, 14 for every man, woman, and child in the Nation. Not surprisingly, with this level of solicitation, Americans with incomes below the median income will double their credit usage in the last decade. The result is not surprising. This doubling of credit usage has involved 27 percent of families earning less than $10,000 a year, having consumer debt that is 40 percent of their income.

If we are going to do something about the abuse of bankruptcy laws, it is only right and fair we do something about the credit industry encouraging Americans to incur debts they cannot afford and in which they should not have become involved.

We deal with these abuses of the credit industry in several ways. First, we require that lenders prominently disclose the following aspects of their debt solicitations: The effects of making only the minimum payment every month; second, when late fees will be imposed; third, the date on which introductory or teaser rates will expire, as well as what the permanent rate will be after that time.

This is balanced legislation protecting the most vulnerable Americans who have marginal economic lives; ensuring that single parents and children are protected; ensuring that the credit industry does not have obligations but also ensuring that bankruptcy laws are not misused and do not become an opportunity for Americans to escape the financial obligations they have willingly encountered and passing that burden on to other small businesses or institutions that cannot afford them.

Madam President, $4 billion of unpaid bills, unfairly passed on to others, is more than American businesses, industries, family firms, and farms should have to inherit.

At long last we have reached reform of our bankruptcy laws. It is a good moment for the Senate and for the Judiciary Committee for these years of struggle with this legislation. I commend again Senator LEAHY, Senator HATCH, and all who joined in the process through the years.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. 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. HATCH. Madam President, I am pleased to rise today to support the motion to invoke cloture on the substitute amendment to H.R. 333. The substitute language is the text of S. 420, the Bankruptcy Reform Act, which passed this Chamber with a bipartisan majority on June 13.

Today, we are another step closer to getting this bill to conference and heading down the home stretch of this legislative marathon. It is time to wrap up this debate and appoint conference who will present a good bill to the President for his signature so American consumers can reap the benefits.

As my colleagues well know, we have compromised and compromised at every step along the way in order to produce a fair piece of legislation that provides new consumer protections, helps children in need of child support, and makes other necessary reforms to a system that is open to abuse.

Contrary to the views of the bill’s opponents, this legislation does not make it more difficult for people to file for bankruptcy, but it does eliminate some of the opportunities for abuse that exist under the current system. Right now, certain debtors with the demonstrated ability to pay continue to abuse the system at the expense of everyone else. Current law perpetuates a system in which people with high incomes can run up massive debts, and then use bankruptcy to get out of honoring them. In the end, all of us pay the price for those who abuse the system in the form of higher interest rates and rising consumer prices.

I am optimistic that this much needed bankruptcy reform legislation will be signed into law this year once the procedural roadblocks put down by the narrow opposition have been removed. It is beyond time to appoint committees and to enact meaningful bankruptcy reform. As I have said many times here on the floor, and just as lately as last week, the American people have waited long enough.

I also oppose amendments that may be offered at this stage after we invoke cloture.

I take very seriously the role of the Senate as a deliberative body, but with
With respect to this reform bill, I am beginning to feel like the passenger on the Titanic who said, “I asked for ice, but this is ridiculous.” The offering of any additional amendments on this bill at this stage will set a dangerous precedent for reopening bills that have already passed on the Senate floor. I urge any and all of the 83 Senators who voted for this bill in March to vote to defeat these amendments to send a clear message that “final passage” means just that. Resolution is needed. I am convinced that the objections of a single member from the other side of the aisle blocked the legislation, and on all but one issue.

As my colleagues know, later that month, the President pocket-vetoed the legislation, and on all but one issue.

We had to turn to an informal conference committee. As a result, the other side of the aisle blocked the objection of a single member from the other side of the aisle.

In October of 2000, the House passed bankruptcy reform again, which passed out of the House by a vote of 313 to 108. Then, the Senate Judiciary Committee once again marked up Senator Grassley’s bankruptcy bill and in May of 1999, we reported it out of committee.

Then, in February of last year, the reform legislation passed the Senate by another impressive margin of 83 to 14.

The Senate requested a conference, but the objection of a single member from the other side of the aisle blocked the appointment of conference. As a result, we began an informal conference process with the House. With a great deal of effort by members on both sides of the aisle, we reached a compromise agreement on over 400 pages of legislation, and on all but one issue.

In October of 2000, the House passed the bankruptcy reform conference report, and in December, the Senate passed it by yet another vote of 70 to 28. And, as my colleagues know, later that month, the President pocket-vetoed the legislation.

The issue of bankruptcy reform is not a new one. We have studied it, held hearings on it, compromised on it, and come to resolution on it with veto-proof margins, in both houses time and again. An elaborate record that sets out the issues, documents the debate and makes the compelling case for reform is available to anyone who cares to give it their attention. At some point, the process of deliberation needs to come to a close, and the will of the Congress needs to be exercised.

Only those who want to delay to kill bankruptcy reform altogether will push for more process. Now is our opportunity to enact into law the legislation that the Congress supports and that the American people want. Let’s get on with the Nation’s business.

I would hope that we defeat any obstructionist amendments at this stage, and we may never see the end to any legislation already passed by this body ever again.

I yield the floor:

The PRESIDING OFFICER (Mr. Edwards). The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I ask unanimous consent to speak on this motion for up to 15 minutes, and at the conclusion of my remarks that the vote on the motion commence.

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

Mr. FEINGOLD. Mr. President, I commend the Senator from Minnesota for his efforts to educate our colleagues and the American people about the unfairness of this bankruptcy bill. It has been overwhelming this debate that the Senator from Minnesota has never avoided a struggle because it is lonely. He has succeeded in framing the issues for the conference quite well. Are we passing this reform for the credit card companies or for consumers? Who is the Senate working on behalf of here? Are we going to pass a bill that passes muster with bankruptcy law experts in the law schools and the courts or with the big banks?

I spoke before when we considered this bill in March about the problems with this legislation and why I believe it should not be passed. Even with the addition of a number of important amendments during the Senate debate—and I hope that the bill that emerges from conference is more like that bill than the House bill—I still believe that the bill will do terrible damage to the bankruptcy system in this country, and even more importantly, to many American families who will bear the brunt of the unfair so-called “reforms” that are included in this bill. It is unfortunate to have to say it, but this is a harsh and unfair measure pushed by the most powerful and wealthy lobbying forces in this country, and it will harm the most vulnerable of our citizens. I voted against the bill when it came up for final passage in March, and I voted against proceeding to it last week. I continue my opposition to bankruptcy reform, but not this version.

One of the major problems with the bill that came to the Senate floor was fixed by an amendment offered by the senior Senator from my state, Mr. Kohl. Senator Kohl has been crusading for years against the millionaire’s loophole in the bankruptcy law—abuse of the unlimited homestead exemption. By a lopsided vote of 60–39, the Senate rejected to table his amendment to set a national ceiling on that exemption. It is clear to everyone that the fate of Senator Kohl’s homestead exemption will be the most fiercely contested issue in a House-Senate conference.

Let me put it as simply and clearly as I can: A bankruptcy reform bill that does not contain limits on abuse of the homestead exemption is a fraud on the American people. We cannot claim to be acting in an even handed fashion if we leave this major loophole untouched, while at the same time imposing harsh new limitations on average hard working people forced by circumstances to seek the protection of the bankruptcy laws.

There are a number of other problems with the bill that I hope the conference committee will try to work out. I will take my remaining time this morning to highlight one. It has to do with the new definition of “household goods” in section 313 of the substitute amendment.

As written, this bill very quietly undermines an extremely important protection that current bankruptcy law offers to debtors. It is a gift to finance companies who have what I consider to be a questionable practice of taking liens on the personal property of the people to whom they lend money.

To understand how unfair the bill is here, my colleagues must be aware that the practice of taking a non-purchase money security interest in certain household goods has been illegal for many years. Under 16 C.F.R. § 442.2, a regulation first promulgated by the Federal Trade Commission during the Reagan Administration, it is an unfair credit practice under section 5 of the Federal Trade Commission Act for a lender to “take or receive from a consumer an obligation that constitutes or contains a non-possessory security interest in household goods other than a purchase money security interest.”

Let me take a step back and remind my colleagues of the difference between a purchase money security interest and a non-purchase money security interest. A purchase money security interest is a lien that is taken on the property that is being purchased with the proceeds of a loan. For example, an auto manufacturer or a bank takes a purchase money security interest in your car when you get a loan to pay for it. That security means the lender can repossess the car to satisfy the loan if you don’t make your payments. Major department stores might take a purchase money security interest in a home entertainment center or a computer or a major appliance that you buy on credit. It makes perfect sense
for these lenders to be secured creditors and to protect their interest in getting their loans repaid. No one has a problem with that.

But when a finance company takes an interest in property already in the home to secure a loan, property that is already purchased and paid for, that is a non-purchase money security interest. And as I said, the FTC determined long ago that such an interest on household goods is illegal. The FTC's definition of household goods, however, is limited. On this chart you can see the definition of household goods in the FTC regulation—clothing, furniture, appliances, one radio and one television, linens, crockery, kitchenware, and personal effects, including wedding rings.

So this definition of household goods is relatively narrow. It includes only a single TV, for example, and it doesn't cover things such as CD players that hadn't even been invented in 1964, or personal items that were not nearly as common in family homes as they are today. Nonetheless, the FTC rule prohibits finance companies from taking non-purchase money liens on items covered by this definition.

But there are lenders that like having these liens as a bargaining chip with their borrowers have hardly been deterred. They want to turn what is essentially an unsecured loan into a secured loan. So they take liens in everything in the home to facilitate the day-to-day living of the borrower. And as I said, the FTC determined in a bankruptcy case what liens can be avoided in bankruptcy.

This chart shows a typical form that the finance companies use to get borrowers to list their personal property when they apply for a loan. They take a lien on everything that a borrower identifies—things like garden tools, jewelry, rugs, cameras, exercise equipment. Make no mistake, these companies have no intention of repossessing these items—most of them are probably worthless—they just use them as a threat to try to get their loans repaid. This chart shows a typical loan application with a list of household goods that these lenders try to take an interest in. They try to cover it all: bicycles, tennis rackets, hedge trimmers, leaf blowers, mirrors, model airplanes, sleeping bags. Finance companies can take liens in these items and enforce liens that can be avoided are those that the FTC's regulation already prohibits. As you can see here, liens can be avoided on clothing, furniture, appliances, one radio and one television, linens, crockery, kitchenware, and personal effects, including wedding rings—all items that are on the FTC's list already.

Thus, under this definition, section 522(f) lien avoidance, which is intended to protect the exemptions for personal property that federal law provide, is almost completely gutted. All of the things I mentioned before that finance companies commonly take liens in are not included in the definition—garden tools, jewelry, rugs, cameras, exercise equipment, bicycles, tennis rackets, hedge trimmers, leaf blowers, mirrors, model airplanes, and sleeping bags. Finance companies can take liens in these items and enforce them in a bankruptcy case.

The real problem here is that no list can be exhaustive. And there is really no reason to have an exhaustive list anyway. The courts are fully capable of determining in a bankruptcy case what kinds of things are standard household items. The list in the bill is far too narrow, and there is absolutely no evidence that there are abuses taking place that need to be addressed.

The reason that this provision is in the bill is simple—the finance companies in support of the bill want more power to take these borderline unethical liens. They want more power to coerce people into reaffirming debts because they don't want their home stripped bare by a company that holds an interest in everything in it. This provision is part of the deal between all the creditors that support this bill. All of them are getting their special protections in this bill, and consumers are left with nothing.

Mr. President, I was prepared to offer an amendment to strike section 313 back in March, but time ran out before I could offer it. I filed it so that it could be offered once cloture is invoked. I will not offer it today, but I believe we should remove this offensive provision in conference. That would move this bill just a little closer to one that actually treats American families fairly.

I thank my colleague from Minnesota for all he has done to fight for American families on this issue. I yield back the balance of my time.
Mr. DODD. Mr. President, I am going to come to the floor later with longer remark, but there are two subject matters I want to bring to the attention of my colleagues that I am sure they have taken note of over the last several days. The first is the continuing reports about last year’s elections in the United States. Obviously, there was particular focus on the State of Florida. But, Mr. President, as you know because of your deep interest in the subject at hand, we believe that was not exclusively a Florida issue. Nor was it merely an issue involving the national election last year. Mr. President, we have a serious problem, based on a number of studies that have been conducted by Members of the other body as well as the Civil Rights Commission and the Massachusetts Institute of Technology, whereby as many as 6 million people did not have their votes counted properly. In addition, I suppose, to the 3 million people we now know who actually tried to vote but were told they were not allowed to vote despite the fact they actually had the right.

That is 9 million people. I know of 10 million people who are blind in this country who did not vote last year. Only one State in the United States actually allows people who are blind to go in and vote on their own. In any other jurisdiction, if you are blind you must be accompanied by someone else. You never get to vote in private, in spite of the fact there is hardly an elevator in America built in the last 5 years where there is not Braille to assist you, or an elevator alone but you cannot cast a ballot alone in the United States.

So there is a growing sense of scandal, in my view, not because someone was involved in some criminal enterprise, but because the right to vote or to manufacture or manipulate the outcome of the election. I use the word “scandal” to speak of a situation in which only one out of every two eligible Americans is casting his or her vote, whereas the results are not having their votes counted properly; that is of deep concern to me.

Patrick Henry, one of the great voices that gave birth to this Nation, once said that the right to vote is the right upon which all other rights depend. I believe he was correct more than 230 years ago, and even now, as we enter into the 21st century.

We lecture the world all the time on our high standards so we never again idly sit and watch an election during which as many as 6 million votes went uncounted. These were people who exercised their civic responsibility and showed up on election day to cast a ballot and, for reasons of a process, that is, the machinery, or other shortcomings, their ballots were never counted—not to mention the people suffering a variety of physical disabilities who were denied that right as well.

It is my hope that in the coming weeks, as we gather more information from across the country about how we could do a better job, we will put adequate resources into this. I say this as my seatmate, normally sitting to my right, is not sitting over here in the chair to the left—on the Appropriations Committee. I have not had a chance to speak with the chairman about this. I will not abuse a public forum to do so at this moment, but I know he cares about these issues as much as I do, and we might talk about how we might provide some resources to our States to ensure that the equipment is modernized, that we no longer have machinery that is a half century old, and if those people who wish to cast their ballots. My hope is we can come up with some national standards, provide the resources to our States, and do a much better job, a much better job in seeing that all people vote in this country and that their votes are then counted.

I cannot begin adequately to express the sense of outrage I sense among people all across this country who were so terribly disappointed, to put it mildly, who went to vote and discovered their votes were not counted.

Put aside your feelings about the outcome of the election. We have a President. His name is George W. Bush. I stood on the west front of the Capitol on January 20, and we believe in the depths of my soul that this is the President of the United States. My concerns are not about the legitimacy of the person who sits in the White House. My concerns are about the legitimacy of a process that I think is in dire need of repair—the election process in this country.

I don’t know how much more evidence we need to have accumulated by independent studies based on last year’s results, especially now that the New York Times, Miami Herald, other newspapers, as well as the organizations I have already mentioned, have looked at the elections of last year and have concluded by and large that there are serious problems with the present electoral process.

I would like to address this issue at greater length later today, but I wanted to raise the matter here before we went into recess over the next hour or two.

Finally, I would like to mention a matter that I think is tremendously important—and I should point out to my colleagues here that the Presiding Officer shares an equal passion about this issue as the Senator from Connecticut. I look forward very much, working with him as a member of the Judiciary Committee that has very specific jurisdiction over the Voting Rights Act of 1965, on how we can listen to people across this country, gather as much adequate information as we can and then propose to our colleagues some meaningful ideas, both resources and ideas, on how we can minimize the electoral problems that occurred not just last year but have been occurring over the last number of years.

THE ELEMENTARY AND SECONDARY EDUCATION ACT

Mr. DODD. The second subject matter is the Elementary and Secondary Education Act. This morning the New York Times as well as others reported that there were serious reservations
being expressed by superintendents of schools and educators across the country about this mandating of testing in the third, fourth, fifth, sixth, seventh, and eighth grades. I certainly want to see young people tested. I think it is worth their while to have children doing under the elementary and secondary educational system of the country, but I am getting concerned that we are merely taking the educational temperature of these children without really having any solutions to the problem that has caused the public to lose faith in our public school system.

Every day the numbers indicate there is greater concern about the quality of public education. I think we can do a better job. But I do not necessarily believe that just testing kids every year, and at what cost, is necessarily going to improve the quality of education. So while I am not opposed to testing, I think we ought to think more about what we can do for those who are failing. What ideas can we come up with and work on with our local communities and States to improve the quality of teachers, the quality of classrooms, the quality of educational materials, wiring schools to take advantage of the explosion in information and technology that is available.

I always find it somewhat mortifying when the Federal Government lectures the country about the quality of education, while we lecture local school districts, States and school boards about what they ought to be doing. The Federal Government contributes less than one-half of 1 percent of the entire Federal budget dedicated to elementary and secondary education. I find that scandalous, to use the word I used when talking about the election process. The fact that the Federal Government in its resources only contributes one-half of 1 percent of its budget to the elementary and secondary educational needs of America's children; that of every dollar that gets spent on education the Federal Government's one-half of 1 percent amounts to about 6 cents. Mr. President, 94 cents of every education dollar comes mostly from local property taxes and some from the States.

In my view, in the 21st century we ought to become an equal partner with local communities and States: one-third, one-third, one-third. That can be done under the elementary and secondary educational system of the country. For the last 35 years we did that on special education. We mandated a law that has required for special education needs of children. Then we never came up with the money to pay for those costs. The bill we just passed in the Senate now mandates full funding of the 40-percent requirement of special education, but it has taken 35 years to do it. We have allowed for full funding of title I, but I would like to know when President Bush is going to tell us what sort of resources the Federal Government is going to commit to these elementary and secondary educational needs.

The President talks about how he wants this done, but I am waiting yet to hear from the White House. How much money is the administration willing to commit to full funding of title I and to special education needs? They are telling us that they want to have mandatory testing. They want accountability, but they are unwilling to say whether or not they will commit the necessary resources to achieve those goals.

I hope the administration, as they urge us to get ready to pass this bill in conference, will also heed their own advice and quickly expedite the commitments made by the President as to what resources will be provided.

It is now only a matter of a few weeks before children and their parents start to prepare to go back to school. We ought not wait much longer to get the job done.

My point of these brief remarks is to urge the administration to step up to the plate and tell us what the resources are. If they are not going to make any at all, then we ought to rethink this bill. Do not tell me the administration will make a move from the local community and then not have the resources to pay for it. And do not tell me that Americans will have to watch property taxes go through the ceiling because Uncle Sam tested their children every year from the third to the eighth grade without providing the resources to help communities and parents meet those greater educational goals.

Both on election reform, and on education, I hope we can get something done.

I wish the President would support election reform. I hope he will speak up and tell us what sort of resource commitments he is willing to make to support the elementary and secondary education needs of America's children.

I appreciate the indulgence of the Chair in listening to these brief remarks.

I yield the floor.

The PRESIDING OFFICER. I thank the Senator from Connecticut.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:51 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CLELAND).

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER OF BUSINESS

Mr. REID. Mr. President, I have been in conversation with my counterpart, Senator NICKLES. We both recognize the importance of moving this bill and other appropriation bills. At this time, however, after consulting with Senator NICKLES, we are not going to ask for a unanimous consent agreement that there be a time for filing of amendments.

Senator DOMENICI and I will work through these amendments. We know there are several amendments, and as soon as we get off the bankruptcy bill, Senator STABENOW is going to offer one. There may be others. Senator DOMENICI and I will work through those.

When we get to a point where we think the amendments are not coming in, we will move to third reading, and we will keep the leadership of the minority advised as to what we are doing. I appreciate the advice and counsel and suggestions made by my friend from Oklahoma. We will do our best to abide by these.

The PRESIDING OFFICER. The assistant Republican leader?

Mr. NICKLES. Mr. President, I thank my friend and colleague, Senator REID. I appreciate his not entering a request to limit or say that all amendments would have to be filed by a certain period of time. I encourage my colleagues to work with the managers of this bill, Senator DOMENICI on our side, if they have amendments, to bring those to his attention.

It is certainly not our intention to procrastinate on this bill. We would like to see the amendments that are pending and do some homework on the amendments, consider them, take them up, pass them or defeat them, and come to final passage in the not too distant future.

I urge all of our colleagues, Republicans and Democrats, if they have amendments, to please bring those forward so we can deal with those appropriately and finish consideration of this important bill.

Mr. REID. Mr. President, if my friend will yield, the other thing I would like to bring to the attention of the Senate is, as soon as we finish this bill, we move to one of President Bush's very
important nominations; that is, of Mr. Graham. The agreement that has been made by the two leaders and that is now part of the Senate record is that as soon as we finish this bill, we will move to that nomination. There is a time limit that has already been made on that matter. The sooner we finish this bill, the sooner we can get to this important nomination of President Bush.

Mr. NICKLES. Mr. President, I concur. I compliment Senator Reid for bringing forward Mr. Graham's nomination. That is a very important nomination. It deals with the Office of Regulatory Affairs. It deals with the cost of regulations. You cannot go a day without seeing some regulations that have an impact in the billions and billions of dollars. It is very difficult for President Bush to deal with this issue and not have his person installed as head of the office. We will have 7 hours of debate on Mr. Graham's nomination. I look forward to that debate and to his confirmation as well.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I thank my two colleagues. This is reasonable. I am concerned that when we have before us an important issue such as this energy bill, which really bears a lot on where we are going in this whole area of energy—and it is very important to me and to the American people—we get the amendments in. But this idea of having them filed by a certain time I believe the Chair would tell us that there is only one amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

Mr. WELLSTONE. Mr. President, I think we need to make it clear that the order for the quorum call is rescinded.

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

The amendment before the Senate is as follows:

(a) STUDY.—The General Accounting Office (in this section referred to as the “GAO”) shall conduct a study to determine—

(1) the impact of this Act and the amendments made by this Act on—

(A) the number of filings under chapter 7 and chapter 13 of title 11, United States Code;

(B) the number of plan confirmations under chapter 13 of title 11, United States Code, and the number of such plans that are successfully confirmed;

(C) the cost of filing for bankruptcy under chapter 7 and chapter 13 of title 11, United States Code, in each State;

(2) the effect of the enactment of this Act on—

(A) the availability and marketing of credit; and

(B) the price and terms of credit for consumers; and

(3) the extent to which this Act and the amendments made by this Act impact the ability of debtors below median income to obtain bankruptcy relief.

(b) REPORT TO CONGRESS.—Not later than 2 years after the enactment of this Act, the GAO shall submit a report to the Congress on the results of the study conducted under subsection (a).

(c) DATA COLLECTION BY UNITED STATES TRUSTEES.

(1) IN GENERAL.—The Director of the Executive Office for United States Trustees shall collect data on the number of reaffirmations by debtors under title 11, United States Code, the identity of the creditors in such reaffirmations, and the type of debt that is reaffirmed.

(2) AVAILABILITY.—Periodically, but not less than annually, the Director shall make available to the public the data described in paragraph (1) in such manner as the Director may determine.

Mr. WELLSTONE. Mr. President, I want to get to the substance of my amendment in a moment. I want to respond for a moment to some of the comments from my colleague from Utah, Senator Hatch. The Senator from Utah said he was going to oppose this amendment because it was a “delaying” amendment. I want Senators to know that I offer this amendment in good faith as an effort, in a modest way, to improve this bill. It says let’s have a GAO study and look at the bankruptcy bill and analyze the effect of it. I don’t know how Senators can vote against this, but I want to make it clear that a Senator could file a thousand amendments if this was all about delay. To my knowledge, this is the only amendment—my colleague from Wisconsin, Senator Feingold, has proposed an amendment, but I don’t think he is going to offer it.

I just want to be clear that your vote on this amendment is a vote on whether or not you think we should be accountable for our vote. That is really what it is. So I don’t want anybody to say I can vote against this amendment because it is some kind of a delaying tactic. That is simply not the case. What we have to say to people back in states is: Look, in good conscience, I voted against an amendment to do a careful evaluation of this bankruptcy bill to see how it is working. You can figure out how you want to fill in the blank. That is the argument you have to make. You can’t vote against this amendment because it was a strategy of delay. That is ridiculous. It is just one amendment.

The second thing I have to do because you have to have a twinkle in your eye, and I think the Chair is one of the best at that. I just received today a solicitation from MBNA, which I think is the largest credit card bank in the country. They offered me a credit line of up to $100,000. There is an introductory 17.5-percent rate, including cash advance. I thank the credit card industry for not taking this personally. This is sent to people—to our kids and grandchildren—every day.

This amendment is straightforward. I hope, I say to the Chair, that it will garner universal support. It should. It doesn’t attempt to undo anything the Senate did earlier this year. It doesn’t revisit any of the debate that we have had. This is not a trick. Look, if I had my way, I would kill this bill. For 2½ years, I have been trying to do that. This amendment is all about accountability. The main provision of the amendment requires that the GAO do a study of the impact of the bankruptcy bill on debtors and consumers of credit. It is that simple.

Both sides have made dramatic arguments or dramatic claims about this legislation. In my case, they have been negative. In the case of some of my colleagues, they have been positive.

My amendment says, OK, 2 years after this bill has become effective, let’s have the General Accounting Office give us a report on how things have turned out. How in the world—I am amazed that there is opposition. There was a great Swedish sociologist, Gunnar Myrdal, who wrote, “Ignorance is never random.” Sometimes maybe we don’t want to know what we don’t want to know. But I think it is really hard for Senators and Republicans, to make an argument that you are unwilling to let the GAO do a study of this careful policy evaluation. That is what this amendment says. Will we be accountable for the votes we cast? For those who think it will be a great bill, you will get a chance to see. For those who think it is going to be harsh in its impact on people, of course, we want to know.

We are going to ask the GAO to study six States.

First, we are going to ask the GAO to report on the impact of the bill on the number of filings under chapter 7 and...
Third, the General Accounting Office will examine the impact on the cost of filing chapter 7 and chapter 13 bankruptcies in each State. This is another key question—whether or not this bill will allow debtors to get bankruptcy relief. There is overwhelming evidence that this is a major hurdle. Some families are going to have to save for months in order to do it.

They are, after all, insolvent. It is also a virtual certainty that this bill will make it more expensive to file, as the Wall Street Journal noted earlier this year. Again, let’s hold ourselves accountable and have the General Accounting Office study this issue for certain.

Fourth, the GAO will report on the impact of the bill on the availability and marketing of credit. Something very interesting happened in 1999 and 2000 while the proponents of so-called reform were bleating about the rising number of bankruptcies. The bean counters in the credit card industry realized that all these bankruptcies were not good for profits so they started lending less money, and they were more careful about who they lent the money to and, in fact, overall consumer debt level actually declined in 1998, and guess what. We had fewer bankruptcies. This trend continued to 1999 and 2000. Bankruptcies only started rising again as the economy started to turn downward.

Several economists have suggested that when you restrict access to bankruptcy protection, as this bill does, you are going to increase the number of filings and defaults because the banks are going to be more willing to lend the money to marginal candidates because they do not have to worry about people then filing for bankruptcy. Indeed, it is no accident that that is exactly what happened after the bill was passed in 1984.

As the May 21 issue of Business Week notes in an article titled “Reform That Could Backfire”:

Indeed, [Mark] Zandi believes that tougher bankruptcy laws will simply induce lenders to ease their standards even more. States with the highest bankruptcy rates already have stringent wage garnishment laws, yet net losses to credit card issuers in such States have been similar to those in States following less restrictive bankruptcy rules.

Let’s see if the experts are right. Have the General Accounting Office do a study.

Fifth, we want to look at the effective so-called reform bill on the price and terms of credit for consumers. What we hear by the credit card companies and proponents of these bills is that all of these bankruptcies have led to higher interest charges and fees for honest consumers. That is because, they say, the credit card companies and banks pass on the costs of the default to their customers.

In fact, I remind colleagues, the credit card companies have calculated the cost of this tax on consumers to be $400 per year. This has been cited as a reason that we need reform. The decent, hard-working people are getting charged $400 more a year because of people who are the slackers and are gaming the system, although there are not very many slackers.

Maybe it is true, but it only matters in the context of the bill if passing this “reform” measure actually results in savings to consumers.

By the way, there is not much evidence that is going to happen. Consider this: In 1999 and 2000, when bankruptcy rates and defaults were dropping sharply, interest rates and fees on credit cards were actually rising, and the bank and credit card lender profits were also rising. This suggests that if there were any savings, they were not passed on to consumers.

If this industry is going to run the show, let’s insist, after this bill passes, there are going to be these great savings for consumers. Let’s just do a careful study of this.

Sixth, the GAO will investigate the extent to which the bill impacts the ability of debtors below median income to obtain bankruptcy relief.

I have heard colleagues over and over that nothing in this bill will affect the ability of low-income debtors to get a fresh start. In fact, I heard the Senator from Alabama make that claim the other day. If that is the case and if the only thing this legislation is about is going after those people who are the slackers or the cheaters, then let’s take a look at it.

As I said before, there are a lot of provisions in this bill that are going to make it much harder for people to get a fresh start, and it has nothing to do with whether or not they were cheaters or slackers. I am talking about the people who have really been put under, no fault of their own.

Let’s have the GAO take a look at this question: Are we going to have a lot of debtors who are going to face these hurdles to filing regardless of their circumstances?

Finally, there is one other part of this amendment. It directs the Director of the Office of U.S. Trustees to collect data on reaffirmation agreements, the identity of the creditors in such reaffirmations, and the type of debt that is reaffirmed.

Under this bill, creditors will have more leeway to force reaffirmations—agreements where debtors reaffirm their intention to pay back the debt and so the debt is not wiped out in bankruptcy. Unfortunately, these agreements are commonly abused by creditors under current law.

I talked about what happened with Sears, Roebuck. They paid $498 million in settlement damages in 1999 and $60 million in fines for illegally coercing reaffirmations—agreements with borrowers to repay debt from its cardholders. Apparently this is just the cost of doing business. Bankruptcy judges in California, Vermont, and New York have claimed that Sears is still
up to its old strong-arm tactics but is now using legal loopholes to avoid disclosure. This amendment will bring some transparency to the reaffirmations and allow us to study how they are being abused.

This is not a new amendment. I have been fighting this bankruptcy bill for a long time, and other Senators have been out here fighting. If it is going to go to conference committee, then I am going to depend on Senator LEAHY and others to improve this bill, although I think there is going to be a vote we are going to deeply regret.

The most vulnerable people are the ones who are going to pay the price. The economy is turning downward and a lot of people may find themselves in terrible circumstances—no fault of their own—and are going to have a very difficult time rebuilding their lives.

I am amazed that the credit card industry and banks are going to industry in institutional terms—not Senator to Senator. Every Senator votes how he or she thinks is right. I am saying can we not at least do an evaluation? Can we not at least make sure that 2 years from now we have the General Accounting Office do a study so we know what is happening around the country?

If the proponents of this legislation are right and this truly was a reform and it truly works well and all of the harsh and negative aspects have happened and this is the case, I will be glad to be proven wrong. But for those of you who support this legislation, surely you also, first of all, want to be right, but if you are wrong and I am right, then you want to know you are wrong so you can change the course of policy. You do not want to see a lot of innocent people, ordinary citizens hurt by this legislation just because the large financial service industry has such clout and how they argue—no. The way to do so is to have the Senate report. No. I am saying can we not at least do an evaluation? Can we not at least make sure that 2 years from now we have the General Accounting Office do a study so we know what is happening around the country?

The amendment is as follows: 'A bill (H.R. 2311) making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes.'
Great Lakes is not a part of President Bush’s energy strategy, nor is it a component of any of the major energy bills pending in Congress.

We are talking about the Great Lakes Basin. We have one of our Nation’s most precious public natural resources. As you can imagine, the citizens of the Great Lakes and all of the States involved are very proud and protective of the Great Lakes waters. We have 33 million people who rely on the Great Lakes for their drinking water, including 10 million from Lake Michigan alone.

Millions of people use the Great Lakes each year to enjoy the beaches, great fishing, and boating. We welcome everyone to come and enjoy the splendor of the Great Lakes.

The latest estimate shows that recreational fishing totals $1.5 billion to Michigan’s tourist economy alone. The Great Lakes are the world’s largest wetlands, dunes, and endangered species and plants, including the rare piping plover, Michigan monkey flower, Pitcher’s thistle, and the dwarf-lake iris.

Lake Michigan alone contains over 770 coastal wetlands, the most of any Great Lake.

As you can see, we are proud of our lakes. All of the States surrounding the Great Lakes have a stake in what happens in these waters, as do all of us, because this is 20 percent of the world’s fresh water. All of us have a stake in making sure we are wise stewards of this important waterway.

Great Lakes drilling would place the tourist economy of the Great Lakes ecosystem, and a vital source of drinking water at great risk for a small amount of oil.

Last year, Michigan produced about 2 minutes’ worth of oil from Great Lakes drilling, on seven wells that have been in place since 1979. Since 1979, Michigan’s wells have only produced 33 minutes of oil. U.S. consumers use 7 billion barrels per year.

The drilling of such a large source of oil. We are deeply concerned about the risks involved in drilling.

I cannot stress enough how important tourism is to the Michigan economy. Families from all over the country come to visit Mackinaw Island and the hundreds and hundreds of miles of beaches up and down Michigan’s coastline.

As I know my colleagues feel the same about their borders and their coastlines. Wisconsin, Ohio, Indiana, Illinois, New York, and Minnesota, all around the Great Lakes we are proud of and depend on tourism as a part of our economy.

As it gets warmer and warmer and more and more arid, here, we welcome people to come and visit the beautiful Great Lakes’ shoreline and the wonderful weather that we are now having in Michigan.

It is estimated, unfortunately, that a single quart of oil—a single quart of oil—through a mishap of any kind could foul as much as 2 million gallons of water. That is our fear.

If an oil spill happened in one of Michigan’s tourist locations, it could ruin these local economies forever.

The Great Lakes are all interconnected and they border eight States, as we know from Minnesota, Wisconsin, Illinois, Michigan, Ohio, Pennsylvania, and New York.

This means that an oil spill in Lake Michigan could wash up on the shores of Michigan, Indiana, Illinois, and Wisconsin. That is why we need to have the Federal Government study this issue because it affects more than just one State.

My amendment is a reasonable and prudent approach to the issue of any oil and gas drilling in the Great Lakes. It is not the Army Corps of Engineers to study the safety and environmental impact of drilling under the Great Lakes. It places a moratorium on new drilling.

On this study is concluded. Congress can review this information and decide whether or not the moratorium should continue.

This is not a partisan issue. I am joining with colleagues on both sides of the aisle Governor Fitzgerald of Wisconsin, my Republican colleague. I am so pleased to have colleagues on both sides of the aisle coming together to protect our wonderful natural resource called the Great Lakes.

We have two prominent Republican Governors who have come out strongly against drilling in the Great Lakes.

If I might read their statements, Ohio Governor Bob Taft has stated that he cannot support drilling under Lake Erie.

Governor Taft has ruled out drilling under the lake, saying many environmental issues would need to be considered before any drilling could be approved.

That was April 11 of this year.

Second, the Governor of Wisconsin, Governor McCullum’s spokeswoman stated that he “doesn’t want any oil exploration in the Great Lakes. If it is for oil and it is going to interfere with the Great Lakes, then he opposes it.”

That was June 5 of this year.

This is a bipartisan issue—a joining together of those of us who believe very strongly that we have a special responsibility as stewards of this wonderful natural resource.

I encourage my colleagues to join us from both sides of the aisle to support this study and this prudent approach by placing a moratorium and studying this critical issue before anything moves forward.

It is important that 20 percent of the world’s supply of fresh water be protected and that we be responsible in our approach. I am pleased I have from around the Great Lakes colleagues who are joining me in this important amendment.

I thank the chairman of the subcommittee for his assistance as well, Senator Reid, and colleagues and staff who have been involved in putting this critical amendment together. I yield the floor.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LEVIN. Mr. President, 33 million people rely on the Great Lakes for drinking water, including 10 million on Lake Michigan alone. Millions of people use our Great Lakes for recreation, such as swimming, fishing, and boating. It is simply irresponsible to risk contamination of this source of drinking water and a large portion of our tourism industry and our recreation without studying the potential damages of drilling.

Our pristine Great Lakes’ coastlines are home to wetlands, over 400 of them along Lake Michigan alone, and to some of the world’s most peculiar sand dunes. They are home to endangered species. Even advocates of drilling acknowledge that some damage at the shoreline is inevitable from more and more slant drilling. It just is not worth the potential harm for the small amount of oil that could be produced in the Great Lakes. That is all we are talking about, a very small drop in a very large bucket, taking risks that we should not be taking with about 20 percent of the world’s supply of fresh water.

The Great Lakes are a shared national resource. That means that many of the States need to work together in order to protect them. What that also means is that if we are going to protect them, we must work at a regional level, not just one State. That is why Governors of many States have stated their opposition to drilling of the kind which is being proposed.

One of our highest priorities in the Great Lakes area is to protect the ecological health of the Great Lakes and the economic and recreational value of our lands, our wetlands, our beaches, and our shorelines.

This amendment would accomplish that goal. I hope this body will support the amendment. I believe most of the Senators from the Great Lakes States support the amendment. It is an issue which is much broader than one State.

We should be very leery, and very careful, before action is taken without adequate study of slant drilling beneath the Great Lakes because of the potential ecological damage that could be done, particularly along our shorelines.

For that reason, I hope this body will give a strong endorsement to the amendment of Senator Stabenow. It is the cautious, conservative thing to do. It does not jeopardize more than a minute amount of our energy supply,
and it does that for a very good cause—the protection of one of the world’s truly great natural assets, the source of about 20 percent of the world’s fresh water.

I yield the floor.

Mr. DOMENICI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.
The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, we have conferred with the two managers, and Senators STABENOW, LEVIN, and FITZGERALD who have an interest in this issue. We are confident we will resolve the issue. We have staff now preparing the necessary amendment, and we will do that subject to the approval of the movers of this amendment. In the meantime, we ask that we move off this amendment, that it be set aside, and that we move to Senator HATCH, who wants to move to the bankruptcy bill, which is now part of the order before the Senate.

The PRESIDING OFFICER. Under a previous order, the Senate will resume consideration of the bankruptcy bill—

Mr. DOMENICI. Mr. President, may I have 30 seconds before we do that?

I want to clear up the record. We have not yet had this ideal about drilling in the Great Lakes is not part of President Bush’s energy policy. So we are not here arguing that the President should not get what he wants; their policy does not involve the notion of drilling in the Great Lakes. We are trying to put something together that would be a moratorium that would be satisfactory to the Great Lakes’ Senators. We should have that ready soon, which will be willing to accept and go to conference and do everything we can to get it.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. FITZGERALD. Mr. President, I thank Senator DOMENICI and Senator Reid and also the sponsor of this amendment, Senator STABENOW. I have been pleased to support this amendment, which would place a moratorium on drilling for oil in the Great Lakes. As a Senator from a State which has a large urban area—namely, the city of Chicago—and the surrounding communities that rely on Great Lakes water for drinking water, I think this moratorium is well advised.

Illinois, as a practical matter, does not have a drilling off its Lake Michigan coast. The issue has arisen, however, in Senator STABENOW’s State. I think this amendment has worked out very well. I appreciate Senator DOMENICI’s commitment to try to work this out in conference. With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I rise to thank Senator DOMENICI and Senator Reid for working with us on this amendment to put together something that is a reasonable moratorium while a study is being conducted by the Army Corps of Engineers. As my friend from Illinois noted, this is important to all of us in the Great Lakes. We want to make sure that wise decisions are made. And for those of us in Michigan, we are extremely concerned about any effort to move ahead now with drilling in oil reserves.

I thank my colleagues and I look forward to working with them to make sure this language moves all the way through the process and, in fact, becomes law.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I commend Senators STABENOW and FITZGERALD and all the cosponsors of this amendment. It is a very reasonable way to get a favorable outcome to this energy bill. Their leadership is really important in getting this done. We are very grateful for the support of Senator REID and Senator DOMENICI for this outcome and their commitment to fight for the Senate position in conference.

I yield the floor.

Mr. DURBIN. Mr. President, I rise in support of Senator STABENOW’s amendment. This amendment simply asks that a study be conducted on the environmental effects of drilling in the Great Lakes. And to give that study time to be completed, a moratorium be placed on drilling for the next 2 years. Before we put in jeopardy one of the world’s largest bodies of freshwater, it is sound public policy that we first have a better understanding of the impact drilling would have on the Great Lakes.

After all, the Great Lakes contain 20 percent of the world’s freshwater and 95 percent of the freshwater in the United States. The Great Lakes contain 6 quadrillion gallons of freshwater—only the polar ice caps and Lake Baikal in Siberia contain more.

Preserving our world’s supply of freshwater is becoming increasingly important as the population grows. Think of it this way, if you put all the water in the world in a 1 gallon container, 1 tablespoon of that would represent all the freshwater in the world. And 1/8 of that tablespoon would represent the freshwater from the Great Lakes.

Lake Michigan alone provides safe drinking water for more than 10 million people every day. More than 33 million people live in the Great Lakes basin.

In addition to providing vital drinking water, the Great Lakes are a source of a thriving tourism industry, and provide ecological diversity and habitat for migratory waterfowl and fish.

Last week, the Senate passed my amendment to the Interior spending bill to prevent energy developing in our national monuments. Much like our national monuments, the Great Lakes will little do add to our energy independence.

The 13 directionally drilled wells on the Michigan shore (7 of which are still in operation) have produced, since 1979, less than 1 hour’s worth of U.S. oil consumption. As many as 30 new wells have been proposed for oil drilling under Lake Michigan and Lake Huron. Even if we produced 30 times as much oil from these new wells as we have from the older ones, it wouldn’t supply enough crude oil to keep the United States running for one day.

A serious accident could contaminate Lake Michigan and put at risk the drinking water used by millions of people from Illinois, Michigan, and Wisconsin. Putting our Nation’s largest supply of fresh water at risk for less than a day’s worth of oil makes no sense.

Modern technology may reduce the chances for a bad oil spill, but there are always uncontrollable factors, as we saw with the Exxon Valdez. Who would have thought that just one tanker could do so much damage? The Exxon Valdez measured 986 feet long—about the size of three football fields. But it spilled 10.8 million gallons of oil. It affected about 1,300 miles of shoreline. And it cost about $2.1 billion for Exxon to clean up.

Propositions of drilling in the Great Lakes focus on the revenues to be gained or the oil to be produced. Sensible expansion of crude oil production can be a valuable component of a new energy strategy. But we should focus also on improved energy efficiency and target production in areas where the environmental risks are not as great.

Let’s take care to protect our natural resources, and explore for oil and gas in environmentally safe locations. There is no sound reason to put the Great Lakes at risk.

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2001—Continued

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I think we are ready to go to a vote on the Wellstone amendment. So I raise a point of order that the amendment of the Senator from Minnesota is not germane.

The PRESIDING OFFICER. The point of order is not well taken.

Mr. HATCH. As I understand it, the yeas and nays are ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I suggest we move to a vote.

The PRESIDING OFFICER. The clerk will call...
Mr. LEVIN. Mr. President, I suggest the absence of a quorum.  
The PRESIDING OFFICER. The clerk will call the roll.  
The legislative clerk proceeded to call the roll.  
Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.  
The PRESIDING OFFICER. Without objection, it is so ordered.  
Mr. WELLSTONE. Mr. President, we are going to have a vote in a moment. I understand the Chair ruled in my favor on the point of order. I am glad that the Chair did so.  
Let me be clear about this amendment. There is no delay whatsoever. This is one amendment. There could be many amendments. This is one amendment. We have had Senators on both sides of this question. Some of us have argued very much in the positive about this legislation, and some of us have argued very much in the negative about this legislation. 
Let the General Accounting Office take a look at this 2 years from now and give us a careful evaluation about how it is working, look at its impact on chapter 7, look at its impact on chapter 13, look at its impact on low- and moderate-income citizens, look at its impact on children and single-parent families. That is all my amendment says.  
I say to colleagues, if I am wrong about this legislation, which I believe is unbelievably harsh, which I think is a testimony to the power of the financial service industry, I will be pleased to be wrong. But if my colleagues are wrong, they are going to want to know they are wrong. They are going to want to know what the impact is. I hope Senators will vote for this amendment.  
All I am asking for is a General Accounting Office study. At the very minimum we should all be accountable for the vote we cast, and I believe that is what this amendment is about.  
The yeas and nays have been ordered. I hope my colleagues will support it.  
The PRESIDING OFFICER. The Senator from Utah.  
Mr. HATCH. Mr. President, it calls for more than that. It calls for data collection and other matters. I rise in opposition to this amendment. I will be very short, and we can go to the vote.  
Senator WELLSTONE’s amendment, which I am sure is well intended, is both dilatory and duplicative. Section 205 of the Senate bill also includes a GAO study on the reauthorization process. This amendment was offered by Senators LEAHY and REID and agreed to by unanimous consent just before final passage of the bankruptcy bill on March 15.  
At this point, this boils down to a question of both process and substance. Again, final passage should mean final passage. I urge my colleagues to vote no on this amendment for these simple reasons. I am prepared to go to the vote.  
The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I say to my colleague from Utah, he is absolutely right, the legislation does call for some studies, but there is nothing in the legislation that calls for a GAO study of all of the issues I indicated which are terribly important in understanding whether this legislation works. That is all I am saying. Let’s at least have a policy evaluation to see how this works. I certainly hope colleagues will support this amendment.  
The PRESIDING OFFICER. The question is on agreeing to amendment No. 977. The yeas and nays have been ordered. The clerk will call the roll.  
The senior assistant bill clerk called the roll.  
Mr. FITZGERALD (when his name was called). Present.  
Mr. NICKLES. I announce that the Senator from New Hampshire (Mr. SMITH) is necessarily absent.  
I further announce that, if present and voting, the Senator from New Hampshire (Mr. SMITH) would vote “nay.”  
The PRESIDING OFFICER (Mrs. MURRAY). Are there any other Senators in the Chamber desiring to vote?  
The result was announced—yeas 52, nays 46, as follows:  

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Mr. NICKLES. I announce that the Senator from New Hampshire (Mr. SMITH) is necessarily absent.  
I further announce that, if present and voting, the Senator from New Hampshire (Mr. SMITH) would vote “nay.”  
The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?  
The result was announced—yeas 82, nays 16, as follows:  

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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:

TITLE I—NEEDS-BASED BANKRUPTCY
Sec. 101. Conversion.
Sec. 102. Dismissal or conversion.
Sec. 103. Sense of Congress and study.
Sec. 104. Notice of alternatives.
Sec. 105. Debtor financial management training test program.
Sec. 106. Credit counseling.
Sec. 107. Schedules of reasonable and necessary expenses.

TITLE 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 motions.
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.

TITLE III—DISCOURAGING BANKRUPTCY ABUSE
Sec. 301. Reinforcement of the fresh start.
Sec. 302. Discouraging bad faith repeat filings.
Sec. 303. Curbing abusive filings.
Sec. 304. Debtor retention of personal property security.
Sec. 305. Relief from the automatic stay when the debtor does not complete intended surrender of consumer debt collateral.
Sec. 306. Giving secured creditors fair treatment in chapter 13.
Sec. 307. Domiciliary requirements for exemptions.
Sec. 308. Limitation.
Sec. 309. Protecting secured creditors in chapter 11.
Sec. 310. Limitation on luxury goods.
Sec. 311. Automatic stay.
Sec. 312. Extension of period between bankruptcy petitions.
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.
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Sec. 1401. Short title.
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TITLE XV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS
Sec. 1501. Effective date; application of amendments.

TITLE XVI—MISCELLANEOUS PROVISIONS
Sec. 1601. Reimbursement of research, development, and maintenance costs.

TITLE I—NEEDS-BASED BANKRUPTCY
SEC. 101. CONSUMER PROTECTION.
Section 706(c) of title 11, United States Code, is amended—
(1) by striking the section heading and inserting the following—

§ 707. DISMISSAL OF A CASE OR CONVERSION TO A CASE UNDER CHAPTER 11 OR 13; and
(2) in subsection (b)—
(A) by inserting “(I)” after “(b)”;
(B) in paragraph (1), as redesignated by subparagraph (A) of this paragraph—
(i) in the first sentence—
(II) by inserting “and, with the debtor’s consent, convert such a case to a case under chapter 11 or 13 of this title,” after “consumer debts”; and
(III) by striking “(i)” after “and” and inserting “(i)(I)” in place of “(i)”;

(3) by striking “25 percent of the debtor’s nonpriority unsecured claims in the case, or $6,000, whichever is greater; or”;
(4) by striking “(II)”; and
(5) by inserting “(ii)(I) The debtor’s monthly expenses shall be the debtor’s applicable monthly expenses specified under 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 order for relief, for the debtor, the dependents of the debtor, and the spouse of the debtor, or a joint case, if the spouse is not otherwise a dependent. Notwithstanding any other provision of this clause, the monthly expenses of the debtor shall not include any payments for debts. In addition, the debtor’s monthly expenses shall include the debtor’s reasonably necessary expenses incurred to maintain the safety of the debtor and the family of the debtor from family violence as defined under section 309 of the Family Violence Prevention and Services Act (42 U.S.C. 10408), 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 allowances 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 the 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 grandchildren of the debtor, the 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 subchapter I of title 9 of the Code by the Executive Office for United States Trustees.
(IV) In addition, the debtor’s monthly expenses may include the actual 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 Local Standards for housing and utilities issued by the International 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—
(a) the total of all amounts scheduled as contractually due in each month of the 60 months following the date of the petition; and
The court shall order—

(i) the payment of the civil penalty to the United States trustee, or the bankruptcy administrator;

(ii) in the case of a petition, pleading, or written motion filed in bad faith, in addition to any other relief to which the party in interest may be entitled, a reasonable attorney’s fee as the court deems just, to be paid by the attorney bringing such petition, pleading, or written motion; and

(iii) the assessment of an appropriate civil penalty against the counsel for the debtor; and

(iv) The debtor’s expenses for payment of all priority claims (including priority child support and alimony claims) shall be calculated at the total amount of debts entitled to priority; divided by (ii) 60.

(b) 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 for which there is no reasonable alternative.

(ii) In order to establish special circumstances, the debtor shall provide—

(i) itemize each additional expense or adjustment of income; and

(ii) evidence of such expense or adjustment of income; and

(bb) a detailed explanation of the special circumstances that make such expenses or adjustments 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 are required in clause (ii), (iii), and (iv) of subparagraph (A) when multiplied by 60 to be less than the lesser of—

(I) 25 percent of the debtor’s nonpriority unsecured claims, or $6,000, whichever is greater; or

(II) $10,000.

(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 bankruptcy process, the United States trustee or bankruptcy administrator shall consider the total of all the factors listed in clause (ii) of such paragraph, which are not applicable or have been rebutted, the court shall consider—

(1) whether the debtor filed the petition in bad faith; or

(2) the total 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 United States trustee or bankruptcy administrator may bring a motion under section 707(b), if the current monthly income of the debtor, or in a joint case, the debtors, is determined to be—

(i) of such paragraph does not apply or has been rebutted, the court shall consider—

(1) the product of the debtor’s current monthly income, multiplied by 12, exceeds 100 percent of the lesser of—

(I) the debtor’s current monthly income; and

(ii) any other subsidiary corporation of the parent corporation.

(6) Only the judge, United States trustee, or bankruptcy administrator may bring a motion under section 707(b), if the current monthly income of the debtor, or in a joint case, the debtors, is determined to be—

(i) less than 25 full-time employees as of the date of the order for relief; and

(ii) the payment of the civil penalty to the United States trustee, or the bankruptcy administrator.

5. (A) Except as provided in subparagraph (B) and subject to paragraph (6), the court may award a debtor all reasonable costs (including reasonable attorneys’ fees) in contesting a motion brought 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—

(1) the attorney brought the motion solely for the purpose of obtaining a debtor into waiving a right guaranteed to the debtor under this title.

(B) A small business that has a claim of an aggregate amount less than $2,000 shall not be subject to subparagraph (A)(i)(I).

(C) For purposes of this paragraph—

(i) the term ‘small business’ means an unincorporated business, partnership, corporation, association, or organization that—

(1) has less than 25 full-time employees as determined on the date the motion is filed; and

(2) is engaged in commercial or business activity; and

(ii) the number of employees of a wholly owned subsidiary of a corporation includes the employees of—

(A) a parent corporation; and

(B) any other subsidiary corporation of the parent corporation.

(D) The signature of an attorney on the petition, pleading, or written motion; and

(E) all sources which the debtor, or in a joint case, the debtors, received for the purposes of this Act; and

(F) the information in the schedules filed with such petition is correct.

(G) The presumption of abuse may only be rebutted by demonstrating special circumstances that justify the information in the schedules filed with such petition is correct.

(H) The signature of an attorney on the petition, pleading, or written motion; and

(I) all sources which the debtor, or in a joint case, the debtors, received for the purposes of this Act; and

(J) the information in the schedules filed with such petition is correct.

6. (A) In any proceeding brought under this subsection, the United States trustee or the bankruptcy administrator may bring a motion to dismiss or convert pursuant to section 707(b); and

(B) the product of the debtor’s current monthly income multiplied by 12 exceeds 100 percent but does not exceed 150 percent of the median family income of the applicable State for 1 earner last reported by the Bureau of the Census; or

(C) in the case of the 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.

7. (A) Except as provided in subparagraph (B) and subject to paragraph (6), the court may award a debtor all reasonable costs (including reasonable attorneys’ fees) in contesting a motion brought 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—

(1) the attorney brought the motion solely for the purpose of obtaining a debtor into waiving a right guaranteed to the debtor under this title.

8. (A) Except as provided in subparagraph (B) and subject to paragraph (6), the court may award a debtor all reasonable costs (including reasonable attorneys’ fees) in contesting a motion brought 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—

(1) the attorney brought the motion solely for the purpose of obtaining a debtor into waiving a right guaranteed to the debtor under this title.

9. In any case in which a motion to dismiss or convert under section 707(b) is filed, the court shall consider—

(A) whether the debtor filed the petition in bad faith; or

(B) the total 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.

10. (A) Except as provided in subparagraph (B) and subject to paragraph (6), the court may award a debtor all reasonable costs (including reasonable attorneys’ fees) in contesting a motion brought 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—

(1) the attorney brought the motion solely for the purpose of obtaining a debtor into waiving a right guaranteed to the debtor under this title.

(B) A small business that has a claim of an aggregate amount less than $2,000 shall not be subject to subparagraph (A)(i)(I).

(C) For purposes of this paragraph—

(i) the term ‘small business’ means an unincorporated business, partnership, corporation, association, or organization that—

(1) has less than 25 full-time employees as determined on the date the motion is filed; and

(2) is engaged in commercial or business activity; and

(ii) the number of employees of a wholly owned subsidiary of a corporation includes the employees of—

(A) a parent corporation; and

(B) any other subsidiary corporation of the parent corporation.

(D) The signature of an attorney on the petition, pleading, or written motion; and

(E) all sources which the debtor, or in a joint case, the debtors, received for the purposes of this Act; and

(F) the information in the schedules filed with such petition is correct.

(G) The presumption of abuse may only be rebutted by demonstrating special circumstances that justify the information in the schedules filed with such petition is correct.

(H) The signature of an attorney on the petition, pleading, or written motion; and

(I) all sources which the debtor, or in a joint case, the debtors, received for the purposes of this Act; and

(J) the information in the schedules filed with such petition is correct.

6. (A) In any proceeding brought under this subsection, the United States trustee or the bankruptcy administrator may bring a motion to dismiss or convert pursuant to section 707(b); and

(B) the product of the debtor’s current monthly income multiplied by 12 exceeds 100 percent but does not exceed 150 percent of the median family income of the applicable State for 1 earner last reported by the Bureau of the Census; or

(C) in the case of the 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.

7. (A) Except as provided in subparagraph (B) and subject to paragraph (6), the court may award a debtor all reasonable costs (including reasonable attorneys’ fees) in contesting a motion brought 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—

(1) the attorney brought the motion solely for the purpose of obtaining a debtor into waiving a right guaranteed to the debtor under this title.

(B) A small business that has a claim of an aggregate amount less than $2,000 shall not be subject to subparagraph (A)(i)(I).

(C) For purposes of this paragraph—

(i) the term ‘small business’ means an unincorporated business, partnership, corporation, association, or organization that—

(1) has less than 25 full-time employees as determined on the date the motion is filed; and

(2) is engaged in commercial or business activity; and

(ii) the number of employees of a wholly owned subsidiary of a corporation includes the employees of—

(A) a parent corporation; and

(B) any other subsidiary corporation of the parent corporation.

(D) The signature of an attorney on the petition, pleading, or written motion; and

(E) all sources which the debtor, or in a joint case, the debtors, received for the purposes of this Act; and

(F) the information in the schedules filed with such petition is correct.

(G) The presumption of abuse may only be rebutted by demonstrating special circumstances that justify the information in the schedules filed with such petition is correct.

(H) The signature of an attorney on the petition, pleading, or written motion; and

(I) all sources which the debtor, or in a joint case, the debtors, received for the purposes of this Act; and

(J) the information in the schedules filed with such petition is correct.
"(A)(i) 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

"(A)(ii) in the case of a debtor in a household of 2 or more 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;

"(B) the product of the debtor's current monthly income, reduced by the amounts determined under section 707(b)(2)(A)(i) (except for the amounts calculated under the other necessary expenses standard issued by 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.;

(d) NOTICE.—Section 342 of title 11, United States Code, is amended by adding at the end the following:

"(d) in an individual case under chapter 7 in which the presumption of abuse is triggered under section 707(b), the clerk shall give written notice not later than 10 days after the date of the filing of the petition that the presumption of abuse has been triggered.''.

(e) NONLIMITATION OF INFORMATION.—Nothing in this section shall prevent any creditor from providing information to a judge (except for information communicated ex parte, unless otherwise permitted by applicable law), United States Trustee, bankruptcy administrator or trustee.

(f) 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:

"(c)(1) In this subsection—

"(A) the term 'crime of violence' has the meaning given that term in section 16 of title 18; and

"(B) the term 'drug trafficking crime' has the meaning given that term in section 841 of title 21.

"(2) Except as provided in paragraph (3), after notice and a hearing, the court, on a motion by the victim of a crime of violence or a drug trafficking crime, may in its discretion dismiss an individual case filed by an individual 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 victim of a case under this chapter is necessary to satisfy 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 insertion; and

(3) by adding at the end the following:

"(7) the action of the debtor in filing the petition was voluntary;

(h) APPLICABILITY OF MEANS TEST TO CHAPTER 13.—Section 1325(b) 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) that shall limit the ability of a creditor in accordance with applicable nondischargeability law to the extent reasonably necessary to be expended for such child) less amounts reasonably necessary 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 518(b)(3) of title 26) to a qualified religious or charitable entity or organization (as that term is defined in section 518(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.''.

"(2) Amounts reasonably necessary to be expended under paragraph (2) shall be determined in accordance with subparagraphs (A) and (B) 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;

"(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.''.

(i) SPECIAL ALLOWANCE FOR HEALTH INSURANCE.—Section 1325(a) of title 11, United States Code, is amended by inserting the following new paragraph—

"(4) reduces amounts to be paid under the plan by the actual amount expended by the debtor to purchase health insurance for the debtor and any dependent of the debtor (if those dependents do not otherwise have health insurance coverage) in accordance with the cost 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 reasonable cost that would be incurred by a debtor who purchases health insurance and who has similar income, expenses, age, health status, and lives in the same geographic location with the same number of dependents that do not otherwise have health insurance coverage;

"(ii) if the debtor did not have health insurance, the amount is not materially larger than the reasonable cost that would be incurred by a debtor who purchases health insurance and who has similar income, expenses, age, health status, and lives in the same geographic location with the same number of dependents that do not otherwise have health insurance coverage; and

"(ii) if the debtor did not have health insurance, the amount is not materially larger than the reasonable cost that would be incurred by a debtor who purchases health insurance and who has similar income, expenses, age, health status, and lives in the same geographic location with the same number of dependents that do not otherwise have health insurance coverage.

"(J) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 11, United States Code, is amended by striking the item relating to section 107 and inserting the following:

"707. Dismissal of a case or conversion to a case under chapter 11 or 13.''.

SEC. 103. SENSE OF CONGRESS AND STUDY.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of the Treasury has the authority to alter the Internal Revenue Service standards established to set guidelines for repayment plans as needed to accommodate the payment of expenditures necessary for the continuation, preservation, and operation of such business.

(b) STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Director of the Executive Office for United States Trustees shall submit a report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate regarding the utilization of Internal Revenue Service standards for determining—

(A) the current monthly expenses of a debtor under section 707(b) of title 11, United States Code;

(B) the impact that the application of such standards has had on debtors and on the bankruptcy courts.

(2) COMMITTEE RECOMMENDATION.—The report under paragraph (1) may include recommendations for amendments to 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 to read as follows:

"Before the commencement of a case under this title by an individual whose debts are primarily consumer debts, the clerk shall give to such individual written notice containing—

"(1) a brief description of—

"(A) chapters 7, 11, 12 and 13 and the general purpose, benefits, and costs of proceeding under each of those chapters; and

"(B) the types of services available from credit counseling agencies;

"(2) statements specifying that—

"(A) a person who knowingly and fraudulently makes a false statement or induces another to make a false statement under penalty of perjury in connection with a bankruptcy case shall be subject to fine, imprisonment, or both; and

"(B) all information supplied by a debtor in connection with a bankruptcy case is subject to examination by the Attorney General.''.

SEC. 105. DEBTOR FINANCIAL MANAGEMENT TRAINING PROGRAM.

(a) DEVELOPMENT OF FINANCIAL MANAGEMENT AND TRAINING CURRICULUM AND MATERIALS.—The Director of the Executive Office for United States Trustees shall consult with the appropriate House of Representatives and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate to develop a financial management training curriculum and materials that can be used to educate individual debtors on how to better manage their finances.

(b) TEST.—

(1) SELECTION OF DISTRICTS.—The Director shall select 5 judicial districts of the United States in which to test the effectiveness of the financial management training curriculum and materials developed under subsection (a); and

(2) USE.—For an 18-month period beginning not later than 270 days after the date of enactment of this Act, such curriculum and materials shall be used for the 5 judicial districts selected under paragraph (1), used as the instructional course concerning personal financial management for purposes of section 101 of title 11, United States Code.

(c) EVALUATION.—

(1) IN GENERAL.—During the 18-month period referred to in subsection (b), the Director shall evaluate the effectiveness of—

(A) the financial management training curriculum and materials developed under subsection (a); and

(B) a sample of existing consumer education programs such as those described in the Report of the National Bankruptcy Review Commission (October 20, 1997) that are representative of consumer education programs carried out by the credit industry, by trustees serving under chapter 13 of title 11, United States Code, and by consumer counseling groups.

(2) REPORT.—Not later than 2 months after concluding such evaluation, the Director shall submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate that contains such information as the Committee on the Judiciary of the House of Representatives, containing the findings of the Director regarding the effectiveness
of such curriculum, such materials, and such programs and their costs.

SEC. 106. CREDIT COUNSELING.
(a) WHO MAY BE A DEBTOR.—Section 109 of title 11, United States Code, is amended by adding at the end the following:

"(h)(1) Subject to paragraphs (2) and (3), and notwithstanding any other provision of this section, an individual may not be a debtor under this title if the individual has, during the 180-day period preceding the date of filing of the petition of that individual, received from an approved nonprofit budget and credit counseling agency at the end of the 180-day period a certificate that makes a determination concerning personal financial management described in subparagraph (D) and the programs or instructional courses which are not reasonably able to service the additional individuals who would otherwise seek credit counseling from that agency because of the requirements of paragraph (1).

"(B) Each United States trustee or bankruptcy administrator at any time."

(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 unless after filing a petition the debtor has completed an instructional course concerning personal financial management described in section 111.

"(h) Subject to paragraph (i), the court shall not grant a discharge under this section unless after filing a petition the debtor has completed an instructional course concerning personal financial management described in section 111.

"(i) Each United States trustee or bankruptcy administrator that makes a determination described in subsection (h) shall review that determination not later than 1 year after the date of that determination, and not less frequently than every year thereafter.".

(d) DEBTOR’S DUTIES.—Section 521 of title 11, United States Code, is amended—

"(1) by inserting "(a)" before "The debtor shall—"; and

"(2) by adding at the end the following:

"(A) in the requirements under subsection (a), an individual debtor shall file with the court—

"(1) a certificate from the approved nonprofit budget and credit counseling agency that the 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 that the debtor is required to file under section 109(h) through the approved nonprofit budget and credit counseling agency responsible for rendering the first credit counseling session identified under paragraph (1)."

(e) GENERAL PROVISIONS.—

"(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

"§ 111. Credit counseling services; financial management instructional courses

"(a) The clerk of each district shall maintain a publicly available list of—

"(1) credit counseling agencies that provide 1 or more programs described in section 109(h) currently approved by the United States trustee or the bankruptcy administrator for the district, as applicable; and

"(2) instructional courses concerning personal financial management currently approved by the United States trustee or the bankruptcy administrator for the district, as applicable; and

"(B) a waiver of the requirements of paragraph (1); or

"(2) by adding at the end the following:

"(A) be a nonprofit budget and credit counseling agency, but was not approved for an additional 1-year period, and for

"(B) may order an additional 15 days.".

(f) C HAPTER 7 DISCHARGE.—Section 721(a) of title 11, United States Code, is amended—

"(1) in paragraph (9), by striking "or" at the end; and

"(2) by adding at the end the following:

"(a) in the requirements under subsection (a), an individual debtor shall file with the court—

"(1) a certificate from the approved nonprofit budget and credit counseling agency that the credit counseling agency that provided the debtor services under section 109(h) describing the services provided to the debtor; and

"(2) a copy of the debt repayment plan that the debtor is required to file under section 109(h) through the approved nonprofit budget and credit counseling agency responsible for rendering the first credit counseling session identified under paragraph (1)."

"(g) C HAPTER 13 DISCHARGE.—Section 1328 of title 11, United States Code, is amended—

"(1) in paragraph (9), by striking "or" at the end; and

"(2) by adding at the end the following:

"(A) be a nonprofit budget and credit counseling agency, but was not approved for an additional 1-year period, and for

"(B) may order an additional 15 days.".

"(h) C HAPTER 11 DISCHARGE.—Section 1149 of title 11, United States Code, is amended—

"(a) subjects to the court a certification that—

"(1) the United States trustee or bankruptcy administrator shall only approve a credit counseling agency that demonstrates that it will provide qualified counselors, maintain adequate provision for safekeeping and payment of client funds, and provide adequate counseling with respect to client credit problems, and deal responsibly and effectively with other matters as relate to the 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, as a mínin receive no commissions or bonuses based on the counseling session outcome, and who have adequate experience, and have been adequately trained to provide counseling and resolve financial difficulty, including the matters described in subparagraph (E);

"(3) demonstrate adequate experience and background in providing counseling services; and

"(4) have adequate financial resources to provide continuing support services for budgeting plans over the life of any repayment plan.

"(B) The United States trustee or bankruptcy administrator shall only approve an instructional course concerning personal financial management—

"(1) for an initial probationary period under subsection (b)(3) if the course will provide at a minimum—

"(A) trained personnel with adequate experience and training in providing effective instructional services;

"(B) 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 handle the problem without incurring negative amortization of their debts;

"(2) in any subsequent period, any agency or course of instruction which has demonstrated success in successive 1-year periods thereafter, any agency or course of instruction which has demonstrated during the probationary or subsequent period that such agency or course of instruction—

"(B) can satisfy such standards in the future.

"(2) later than 20 days after any final decision under paragraph (4), that occurs either after the expiration of the initial probationary period, or after any 2-year period thereafter, an individual may not be a debtor under this title after the date on which the debtor made that request; or

"(C) a waiver of the requirements of paragraph (1); or

"(3) be a nonprofit budget and credit counseling agency, but was not approved for an additional 1-year period, and for

"(4) may order an additional 15 days.".
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. The disclosure required under this section 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 offered, and—

"(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 consumers 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 under subsection (a) a credit counseling agency upon finding that such agency does not meet the qualifications of subsection (b).

"(f) The United States trustee or bankruptcy administrator shall notify the clerk of any credit counseling agency that is not longer approved, in which case the clerk shall remove it from the list maintained under subsection (a).

"(g) 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—

"(I) any actual damages sustained by the debtor as a result of the violation; and

"(II) any court costs or reasonable attorneys’ fees (as determined by the court) incurred in an action to recover those damages.

"(2) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 11, United States Code, is amended by adding at the end the following:

"Sec. 203. DISCOURAGING ABUSE OF REAFFIRMATION AGREEMENTS.

"Subtitle A—Penalties for Abusive Creditor Practices

"SEC. 201. PROMOTION OF ALTERNATIVE DISPUTE RESOLUTION SERVICES.

"(a) REDUCTION OF CLAIM.—Section 502 of title 11, United States Code, is amended by adding at the end the following:

"(k)(1) If, at the time the petition is filed, the value of the property included in the amount reaffirmed, or any interest in such property, is less than $5,000, the trustee or bankruptcy administrator may reduce the claim, if—

"(I) the annual percentage rate determined under paragraphs (5) and (6) of section 127(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 reaffirmation agreement, statement, declaration, motion and order described, respectively, in paragraphs (4) through (8), and shall be the only disclosures required in connection with the reaffirmation.

"(2) The disclosures required under paragraph (1) shall be made clearly and conspicuously and in writing. The terms ‘Amount Reaffirmed’ and ‘Annual Percentage Rate’ shall be disclosed in a conspicuous manner. No data or information provided in connection with this disclosure, except 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 (4) that the terms ‘Amount Reaffirmed’ and ‘Annual Percentage Rate’ must be used where indicated.

"The disclosure statement required under this paragraph shall consist of the following:

"(A) The statement: ‘Part A: Before agreeing to reaffirm a debt, review these important disclosures’;

"(B) Under the heading ‘Summary of Reaffirmation Agreement’, the statement: ‘This Summary is made pursuant to the requirements of the bankruptcy Code’;

"(C) The ‘Amount Reaffirmed’, using that term, which shall be—

"(i) the total amount which the debtor agrees to reaffirm, and

"(ii) the total of any other fees or cost accrued as of the date of the disclosure statement.

"(D) In conjunction with the disclosure of the ‘Amount Reaffirmed’, the statement:

"(i) The amount of debt you have agreed to reaffirm;

"(ii) 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

"(I) the annual percentage rate determined under paragraphs (5) and (6) of section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b) (5) and (6), as applicable, as disclosed 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 have been so disclosed 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, the

"(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 such each balance included in the amount reaffirmed, or

"(III) if the entity making the disclosure elects, to disclose the annual percentage rate under subclause (I) and the simple interest rate under subclause (II),

"(F) 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 section 12a(4) of the Truth in Lending Act (15 U.S.C. 1638(a)(4), as disclosed to the debtor in the most recent periodic statement prior to the reaffirmation agreement with respect to the debt, or, if no such disclosure statement was provided the debtor, the annual percentage rate as it would have been so disclosed 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, the

"(II) the simple interest rate applicable to the amount reaffirmed as of the date the disclosure statement is given to the debtor,
A reaffirmation agreement is a legal document that allows a debtor to reaffirm, or keep, a debt after a bankruptcy filing. To reaffirm a debt, the debtor must sign an agreement stating that they intend to continue making payments on the debt. The agreement must be approved by the court. The terms of the reaffirmation agreement must be fair and reasonable, and the debtor must have received a full and complete disclosure of the terms of the agreement. If the debtor is represented by an attorney, the attorney must sign the agreement. If the debtor is not represented by an attorney, the judge will explain the agreement to the debtor and make sure that the debtor understands the terms of the agreement. The agreement must be filed with the court and is effective upon filing. If the agreement is not filed with the court or is not approved by the court, the reaffirmation agreement will not be effective.
"(9) Subsection (a)(2) does not operate as an injunction against an act by a creditor that is the holder of a secured claim, if—
(A) such creditor retains a security interest in real property that is the debtor's principal residence;
(B) such act is in the ordinary course of business between the creditor and the debtor; and
(C) such act is limited to seeking or obtaining periodic payments associated with a valid security interest in lieu of pursuit of in rem relief to enforce the lien.

(1) Notwithstanding any other provision of this title:

(1) A creditor may accept payments from a debtor before and after the filing of a reaffirmation agreement with the court.

(2) A creditor may accept payments from a debtor under a reaffirmation agreement which the creditor believes in good faith to be effective.

(3) The requirements of subsections (c)(2) and (k) shall be satisfied if disclosures required under those subsections are given in good faith.

(4) Until 90 days after a reaffirmation agreement is filed with the court (or such additional period as the court, in its discretion, orders in the case of a reaffirmation agreement referred to in the preceding sentence), the individuals designated under this section shall, in addition to any other responsibilities, have primary responsibility for carrying out the duties of a United States attorney under section 3557.

(b) Bankruptcy procedures.—The bankruptcy courts shall establish procedures for referring any case which may contain a materially fraudulent statement in a bankruptcy schedules.

(c) Preservation of claims and defenses upon sale of prepetition loans. Section 363 of title 11, United States Code, is amended by adding at the end the following:

"(p) In the context of that process, including consideration of the following:

(1) the policies and activities of creditors with respect to reaffirmation; and
(2) whether consumers are fully, fairly, and consistently informed of their rights pursuant to this title.

(b) Bankruptcy procedures.—The bankruptcy courts shall establish procedures for referring any case which may contain a materially fraudulent statement in a bankruptcy schedules. These procedures shall be submitted to the Congress not later than 180 days after the date of enactment of this Act.

(c) Preservation of claims and defenses upon sale of prepetition loans. Section 363 of title 11, United States Code, is amended by adding at the end the following:

"(p) In the context of that process, including consideration of the following:

(1) the policies and activities of creditors with respect to reaffirmation; and
(2) whether consumers are fully, fairly, and consistently informed of their rights pursuant to this title.

(d) No entity may accept payments from a debtor after the debtor's discharge without the consent of the court.

SEC. 204. PRESERVATION OF CLAIMS AND DEFENSES UPON SALE OF PREPETITION LOANS.

Section 363 of title 11, United States Code, is amended by adding at the end the following:

"(p) In the context of that process, including consideration of the following:

(1) the policies and activities of creditors with respect to reaffirmation; and
(2) whether consumers are fully, fairly, and consistently informed of their rights pursuant to this title.

SEC. 205. GAO STUDY ON REAFFIRMATION PROCESSES.

(a) Study.—The General Accounting Office (in this section referred to as the "GAO") shall conduct a study of the reaffirmation processes under title 11, United States Code, to determine the extent to which consumers are able to make the payments as agreed upon before the reaffirmation agreement with the court.

(b) Report to Congress.—Not later than 180 days after the date of enactment of this Act, the GAO shall submit a report to the Congress on the study conducted under subsection (a).

Title 11, United States Code, is amended by adding the following:

"(A) Allowed unsecured claims for domestic support obligations that, as of the date of the filing of the petition, are owed to or recoverable by a spouse, former spouse, child of the debtor, or such child's parent, legal guardian, or responsible relative; or
(B) allowed unsecured claims for domestic support obligations that, as of the date of the filing of the petition, are owed directly to or recoverable by a governmental unit related to a nongovernmental entity (unless such obligation is assigned voluntarily by the spouse, former spouse, child, parent, legal guardian, or responsible relative to a nongovernmental entity).
(1) in subsection (c), by striking paragraph (1) and inserting the following:

"(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) in which case, notwithstanding any provision of chapter 5 of title 11, other than section 523, 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 that are due on or before the date on which the petition is filed; and"

(2) in section 1328(a), by inserting after paragraph (1), the following:

"(1) failure of the debtor to pay any domestic support obligation that first becomes payable after the date on which the petition is 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";

(3) in section 1322(a)—

(A) by redesigning paragraph (11) as paragraph (12); and

(B) by 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 nondischargeable under section 523(a)(1), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims; and"

(4) 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 that are due on or before 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";

(5) in section 1322(a)—

(A) in paragraph (5), by striking "and" at the end;

(B) in paragraph (10), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(11) failure of the debtor to pay any domestic support obligation that first becomes payable after the date on which the petition is filed;"

(6) in section 1288(a), in the matter preceding paragraph (1), by inserting "and"

"in the case of a debtor who is required by a judicial 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 before 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 "; and"; and

(C) by adding at the end the following:

"(11) failure of the debtor to pay any domestic 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:

"(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;"

(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 following:

"(10) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 523(a)(1), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such in-

(1) in subsection (c), by striking paragraph (1) and inserting the following:

"(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) in which case, notwithstanding any provision of chapter 5 of title 11, other than section 523, 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 that are due on or before the date on which the petition is filed; and"

(2) in section 1328(a), in the matter preceding paragraph (1), by inserting "and"

"in the case of a debtor who is required by a judicial or administrative order or statute to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or statute that are due on or before 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";

(3) in subsection (c), by striking paragraph (1) and inserting the following:

"(1) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 523(a)(1), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such in-

(1) in subsection (c), by striking paragraph (1) and inserting the following:

"(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) in which case, notwithstanding any provision of chapter 5 of title 11, other than section 523, 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 that are due on or before the date on which the petition is filed; and"

(2) in section 1328(a), by inserting after paragraph (1), the following:

"(11) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 523(a)(1), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims; and"

(3) in section 1322(a)—

(A) by redesigning paragraph (11) as paragraph (12); and

(B) by 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 nondischargeable under section 523(a)(1), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims; and"

(4) 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 that are due on or before 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";

(5) in section 1322(a)—

(A) in paragraph (5), by striking "and" at the end;

(B) in paragraph (10), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(11) failure of the debtor to pay any domestic support obligation that first becomes payable after the date on which the petition is filed;"

(6) in section 1288(a), in the matter preceding paragraph (1), by inserting "and"

"in the case of a debtor who is required by a judicial 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 before 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 "; and"; and

(C) by adding at the end the following:

"(11) failure of the debtor to pay any domestic 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:

"(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;"

(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 following:

"(10) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 523(a)(1), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such in-

(1) in subsection (c), by striking paragraph (1) and inserting the following:

"(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) in which case, notwithstanding any provision of chapter 5 of title 11, other than section 523, 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 that are due on or before the date on which the petition is filed; and"

(2) in section 1328(a), in the matter preceding paragraph (1), by inserting "and"

"in the case of a debtor who is required by a judicial 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 before 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";
“(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 the 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.”;

(3) in subsection (c)—

(i) by striking “(2) For purposes” and inserting “(2) in subsection (b)—

(ii) in paragraph (4), by striking “and” and inserting “;”; and

(iii) by striking “(2) in paragraph (b)—

(B) The notice under subparagraph (A)—

(i) include in the notice under this paragraph the address and telephone number of the holder of the claim; and

(ii) include in the notice under this paragraph the address and telephone number of the holder of the claim; and

(iii) include in the notice under 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 the 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.”;

(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 the 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.’’.

(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and

(B) notify, in writing, the State child support agency for the State in which the holder resides, and the holder of the claim, of—

(i) the granting of the discharge;

(ii) the last known recent name and address of the debtor; and

(iii) the granting of the discharge;

(2) by adding at the end the following:

‘‘(8) acceptance of any fees from a debtor, the bankruptcy petition preparer shall provide to the debtor a written notice to debtors concerning bankruptcy petition preparers, which shall be on an official form issued by the Judicial Conference of the United States.’’

‘‘(A)(i) notify in writing the holder of the claim to the debtor or any other person the right of such attorney under the direct supervision of such attorney;’’;

(2) in subsection (b)—

(A) in paragraph (1), by adding at the end the following: ‘‘If a bankruptcy petition preparer is not an individual, then an officer, principal, responsible person, or partner of the preparer shall be required to—

(a) the identifying number of the debtor’s employer; and

(ii) the bankruptcy petition preparer, under penalty of perjury, shall—

(i) by striking “(2) For purposes” and inserting “(2) Subject to subparagraph (B), for purposes”; and

(B) by striking paragraph (3); and

(iv) by striking “(d)” and inserting “(d’);’’; and

(C) by adding at the end the following:

(A) sign the document for filing; and

(B) the notice under subparagraph (A)—

(i) by striking “(2) For purposes” and inserting “(2) in paragraph (b)—

(ii) include in the notice under this paragraph the address and telephone number of the holder of the claim; and

(iii) shall—

(B) print on the document the name and address of that officer, principal, responsible person or partner;’’; and

(B) by striking paragraph (2) and inserting the following:

‘‘(B) at the top of the page, provide the applicable notification specified in subsection (b).’’; and

‘‘(I) be signed by—

‘‘(aa) is not discharged under paragraph (2), (3), or (14) of section 523(a); or

‘‘(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of the 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.’’;

(2) by adding at the end the following:

‘‘(6) 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 the following:

‘‘(a) a qualified education loan, as that term is defined in section 464 of the Social Security Act (42 U.S.C. 664, 666) for the State in which the holder resides; and

‘‘(a) an educational benefit, scholarship, or stipend;’’;

(B) in paragraph (4), by striking “the debtor’s” and inserting “the holder of the claim’s”;

(C) in paragraph (5), by striking the period and inserting “; and”; and

(1) in subsection (a)—

(ii) include in the notice under paragraph (1) the granting of the discharge; and

(i) by striking “(2) For purposes” and inserting “(2) in paragraph (b)—

‘‘(B) by striking paragraph (3); and

(B) if a bankruptcy petition preparer is not an individual, the identifying number of the bankruptcy petition preparer shall be the Social Security account number of the officer, principal, responsible person, or partner of the preparer;’’; and

(ii) by striking “(2)” and inserting “(d’);’’; and

(B) by striking paragraph (2);
(5) in subsection (e)—
(A) by striking paragraph (2); and
(B) by adding at the end the following:
"(3)(A) A bankruptcy petition preparer may not charge a higher fee than the bankruptcy trustee or any legal advice, including any legal advice described in subparagraph (B)."
(6) in subsection (f)—
(A) by striking paragraph (2); and
(B) by adding at the end the following:
"(3)(A) A bankruptcy petition preparer may not charge a higher fee than the bankruptcy trustee or any legal advice, including any legal advice described in subparagraph (B)."
(7) in subsection (g)—
(A) by striking paragraph (2); and
(B) by adding at the end the following:
"(3)(A) A bankruptcy petition preparer may not charge a higher fee than the bankruptcy trustee or any legal advice, including any legal advice described in subparagraph (B)."
(8) in subsection (h)—
(A) by striking paragraph (2); and
(B) by adding at the end the following:
"(3)(A) A bankruptcy petition preparer may not charge a higher fee than the bankruptcy trustee or any legal advice, including any legal advice described in subparagraph (B)."

SEC. 224. PROTECTION OF RETIREMENT SAVINGS IN BANKRUPTCY.

(a) In General.—Section 522(f) of title 11, United States Code, is amended—

(1) in subsection (b)—
(A) in paragraph (2)—
(i) by striking "(A)," by striking "and" and at the end;

(2) in subsection (b), by striking the period at the end and inserting "(c), (d), (e), (f), and (g)."

(3) the tax consequences of a case brought under this title or—

(1) the dischargability of tax claims; and

(2) whether the debtor may or should promise to repay debts to a creditor or enter into a reaffirmation agreement with a creditor to reaffirm a debt;

(3) concerning how to characterize the nature of the debtor's interests in property or the debtor's rights; or

(4) concerning bankruptcy procedures and rights:

(6) in subsection (f)—
(A) by striking "(1)" and inserting "(i);"

(7) in subsection (g)—
(A) by striking "(g)(1)" and inserting "(g));" and

(8) in subsection (h)—
(A) by striking paragraph (2); and
(B) by adding at the end the following:
"(3)(A) A bankruptcy petition preparer may not charge a higher fee than the bankruptcy trustee or any legal advice, including any legal advice described in subparagraph (B)."

(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 use of alcohol or a drug.

SEC. 225. SENSE OF CONGRESS.

It is the sense of Congress that States should develop curricula relating to the subject of personal finances that are used for elementary and secondary schools.

SEC. 226. ADDITIONAL AMENDMENTS TO TITLE 11, UNITED STATES CODE.

Section 522(f) of title 11, United States Code, is amended by inserting after paragraph (b) 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 use of alcohol or a drug."
(2) in subsection (d)—
(A) in the matter preceding paragraph (1), by striking "subsection (b)(1)" and inserting "subsection (b)(2)"; and
(B) at the end of the section:
(12) Retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.
(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, is amended—
(1) in paragraph (17), by striking "or at the end; and
(2) in paragraph (18), by striking the period and inserting a semicolon.
(c) EXCEPTIONS TO DISCHARGE.—Section 523(a) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:
(18) 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—
(A) only if the designated beneficiary of such account was a son, daughter, stepson, stepdaughter, grandchild, or step-grandchild of the debtor for the taxable year for which funds were placed in such account;
(B) only to the extent that such funds—
(i) are not pledged or promised to any entity in connection with the purchase or use of any person's education; and
(ii) are not excess contributions (as described in section 4975(e) of the Internal Revenue Code of 1986); and
(C) in the case of funds placed in all such accounts having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;
(6) funds used to purchase a tuition credit or certificate or contributed to an account established under section 529(b)(1) of the Internal Revenue Code of 1986;
(C)沭款 in the case of funds placed in all such accounts having the same designated beneficiary not earlier than 720 days nor later than 365 days before the date of filing of the petition, but—
(A) only if the designated beneficiary of such account was a son, daughter, stepson, stepdaughter, grandchild, or step-grandchild of the debtor for the taxable year for which funds were paid or contributed;
(B) with respect to the aggregate amount paid or contributed on behalf of the same designated beneficiary, only so much of such amount as does not exceed the total contributions permitted under section 529(b)(7) of the Internal Revenue Code of 1986; and
(C)沭款 in the case of funds placed in all such accounts not later than 365 days before the date of filing of the petition, but—
(A) only if the designated beneficiary of such account was a son, daughter, stepson, stepdaughter, grandchild, or step-grandchild of the debtor for the taxable year for which funds were paid or contributed;
(B)沭款 with respect to the aggregate amount paid or contributed on behalf of the same designated beneficiary, only so much of such amount as does not exceed $5,000;
(6) funds used to purchase a tuition credit or certificate or contributed to an account established under section 529(b)(1) of the Internal Revenue Code of 1986;
(C)沭款 in the case of funds placed in all such accounts having the same designated beneficiary not earlier than 720 days nor later than 365 days before the date of filing of the petition, but—
(A) only if the designated beneficiary of such account was a son, daughter, stepson, stepdaughter, grandchild, or step-grandchild of the debtor for the taxable year for which funds were paid or contributed;
(B)沭款 with respect to the aggregate amount paid or contributed on behalf of the same designated beneficiary, only so much of such amount as does not exceed the total contributions permitted under section 529(b)(7) of the Internal Revenue Code of 1986; and
(C)沭款 in the case of funds placed in all such accounts not later than 365 days before the date of filing of the petition, but—
(A) only if the designated beneficiary of such account was a son, daughter, stepson, stepdaughter, grandchild, or step-grandchild of the debtor for the taxable year for which funds were paid or contributed;
(B)沭款 with respect to the aggregate amount paid or contributed on behalf of the same designated beneficiary, only so much of such amount as does not exceed $5,000;
(6) funds used to purchase a tuition credit or certificate or contributed to an account established under section 529(b)(1) of the Internal Revenue Code of 1986;
force the qualifications for the practice of law under the laws of that State; or

(2) Any debt relief agency shall be liable to an assisted person in the amount of any fees or charges in connection with providing bankruptcy assistance to such person that such debt relief agency has received, for actual damages, and for reasonable attorneys' fees and costs if such agency is found, after notice and hearing, to have—

(A) intentionally or negligently failed to comply with any provision of this section, section 527, or section 528 with respect to a case or proceeding under this title for such assisted person;

(B) provided bankruptcy assistance to an assisted person for proceeding under this title that is dismissed or converted to a case under another chapter of this title because of such agency's intentional or negligent failure to file any required document including those specified in chapter 521;

(C) intentionally or negligently disregarded the material requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such agency.

(3) In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this section, the State—

(A) may bring an action to enjoin such violation;

(B) may bring an action on behalf of its residents to recover the actual damages of assisted persons arising from such violation, including any liability under paragraph (2); and

(C) in the case of any successful action under paragraphs (A) and (B), shall award the costs of the action and reasonable attorney fees as determined by the court.

(4) The United States District Court for any district in which any part of the property of the debtor is located shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

(5) Any other provision of Federal law and in addition to any other remedy provided under Federal or State law, if the court, on its own motion or on motion of the United States trustee or the debtor, finds that a person intentionally violated this section, or engaged in a clear and consistent 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.

(6) No provision of this section, section 527, or section 528 shall—

(1) annul, alter, affect, or exempt any person subject to such sections from complying with any law of such State or from being subject 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 obligations of

(A) a State or subdivision or instrumentality thereof, to determine and enforce qualifications for the practice of law under the laws of that State; or

(B) a Federal court to determine and enforce the qualifications for the practice of law before proceeding under this title.

(c)(1) Any contract for bankruptcy assistance between a debt relief agency and an assisted person that does not comply with the material requirements of this section, section 527, or section 528 shall be void and may not be enforced by any Federal or State court or by any other person, except as such assisted person consents in writing.

(2) Any debt relief agency shall be liable to an assisted person in the amount of any fees or charges in connection with providing bankruptcy assistance to such person that such debt relief agency has received, for actual damages, and for reasonable attorneys' fees and costs if such agency is found, after notice and hearing, to have—

(A) intentionally or negligently failed to comply with any provision of this section, section 527, or section 528 with respect to a case or proceeding under this title for such assisted person;

(B) provided bankruptcy assistance to an assisted person for proceeding under this title that is dismissed or converted to a case under another chapter of this title because of such agency's intentional or negligent failure to file any required document including those specified in chapter 521;

(C) intentionally or negligently disregarded the material requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such agency.

(3) In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this section, the State—

(A) may bring an action to enjoin such violation;

(B) may bring an action on behalf of its residents to recover the actual damages of assisted persons arising from such violation, including any liability under paragraph (2); and

(C) in the case of any successful action under paragraphs (A) and (B), shall award the costs of the action and reasonable attorney fees as determined by the court.

(4) The United States District Court for any district in which any part of the property of the debtor is located shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

(5) Any other provision of Federal law and in addition to any other remedy provided under Federal or State law, if the court, on its own motion or on motion of the United States trustee or the debtor, finds that a person intentionally violated this section, or engaged in a clear and consistent 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.

(6) No provision of this section, section 527, or section 528 shall—

(1) annul, alter, affect, or exempt any person subject to such sections from complying with any law of such State or from being subject 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 obligations of

(A) a State or subdivision or instrumentality thereof, to determine and enforce qualifications for the practice of law under the laws of that State; or

(B) a Federal court to determine and enforce the qualifications for the practice of law before proceeding under this title.
or of the benefits of bankruptcy directed to the general public (whether in general media, seminars or specific mailings, telephonic or electronic messages, or otherwise) that the services or benefits are available at no cost to the consumer, or to a consumer, or at a reduced cost and that the consumer was being offered when in fact the services or benefits were not available, or were available at no cost to the consumer, or to a consumer, or at a reduced cost.

(b) DEFI NITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (41) 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—

(II) the individual's first name (or initials) and last name, whether given at birth or adoption or legally changed;

(III) the physical address for the individual's home;

(iv) the individual's e-mail address;

(v) the individual's home telephone number;

(vi) the individual's social security number;

or

(vii) 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;

(ii) any other information concerning an identified individual that, if disclosed, will result in the public disclosure of the individual's social security number; or

(iii) the individual's credit card account number; and

SEC. 190. GOO D STUDY.

(a) 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, to provide bankruptcy assistance with respect to debtors under this title, and report

(b) Conforming Amendment.—The table of sections for chapter 5 of title 11, United States Code, as amended by this Act, is amended by inserting after the item relating to section 527, the following:

"§ 528. Debor's bill of rights."

SEC. 219. PROHIBITION ON 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 inserting the following:

"(I) more than 1 previous case under any of chapters 7, 11, or 13; or

(b) Conforming Amendment.—Section 363(b)(1) of title 11, United States Code, as amended by this Act, is amended by inserting after the item relating to section 527, the following:

"§ 528. Debor's bill of rights."

SEC. 219. PROHIBITION ON NONPUBLIC PERSONAL INFORMATION.

SEC. 250. REFORM OF THE FRESH START.

(a) Requiring—In a case under this title, the debtor may be required to provide information regarding a minor child involved in matters under this title,

(b) Conforming Amendment.—The table of sections for chapter 5 of title 11, United States Code, is amended by adding at the end the following:

"(i) as to all creditors, if—

(ii) 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, or was dismissed under chapter 11, or was converted to a case under chapter 7 after dismissal under section 707(b)—

(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, or was dismissed under chapter 11, or was converted to a case under chapter 7 after dismissal under section 707(b)—

(a) PROHIBITION.—Chapter 1 of title 11, United States Code, is amended by adding after section 111, as added by this Act, the following:

"§ 112. Prohibition on disclosure of identity of minor children.

TITLE III—DISCOURAGING BANKRUPTCY ABUSE

SEC. 301. REIMBURSEMENT OF THE FRESH START.

SEC. 302. DISCOURAGING BAD FAITH REPEAT FILINGS.
since the dismissal of the next most previous case under chapter 7, 11, or 13 or any other reason to conclude that the later case will not be concluded, if a case under chapter 7, with a discharge, and if a case under chapter 11 or 13, with a confirmed plan which will be fully performed; and

"(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to actions of such creditor; and

"(iv) if a single or joint case is filed by or against an individual debtor under this title, and if 2 or more single or joint cases of the debtor were pending within the previous year but were dismissed, other than a case that was refiled under section 707(b), the stay under subsection (a) shall not go into effect upon the filing of the later case; and

"(v) on request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect;

"(B) if, within 30 days after the filing of the later case, an interested requesting creditor may order the stay to take effect in the case as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and hearing only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed; and

"(C) a stay imposed under subparagraph (B) shall be effective on the date of entry of the order allowing the stay to go into effect; and

"(D) for purposes of subparagraph (B), a case is pending only if filed in good faith but such presumption may be rebutted by clear and convincing evidence to the contrary)—

"(i) as to all creditors if—

"(A) multiple bankruptcy cases under this title in which the individual was a debtor were pending within the 1-year period;

"(II) a previous case under this title in which the individual was a debtor was dismissed within in the time period stated in this paragraph after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the attorney), failed to pay adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

"(III) there has been a substantial change in the personal or financial affairs of the debtor since the dismissal of the next most previous case under this title, or any other reason to conclude that the later case will not be concluded, if a case under chapter 7, with a discharge, and if a case under chapter 11 or 13, with a confirmed plan which will be fully performed; and

"(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, such action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to action of such creditor.

SEC. 303. CURBING ABUSIVE FILINGS.

(a) In General.—Section 362(d) of title 11, United States Code, is amended—

"(i) in paragraph (2), by striking "or" at the end;

"(ii) in paragraph (3), by striking the period at the end and inserting "and"; and

"(iii) by adding at the end the following:

"(4) with respect to a stay of an act against real property under subsection (a), by a creditor whose action by an interest in such real estate, if the court finds that the filing of the bankruptcy petition was part of a scheme to delay, hinder, and defraud creditors that involved either—

"(A) transfer of all or part ownership of, or other interest in, the real property without the consent of the secured creditor or court approval; or

"(B) multiple bankruptcy filings affecting the real property.

If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under this subsection shall be binding in any other case under this title purporting to affect the real estate that is filed not later than 2 years after the date of entry of such order by the court, except that a debtor in a subsequent case may move for relief from such a stay on the ground that such circumstances or for good cause shown, after notice and a hearing. 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 and recording.

(b) AUTOMATIC STAY.—Section 362(b)(1) of title 11, United States Code, is amended by inserting after paragraph (19), as added by this Act, the following:

"(20) under subsection (a), of any act to enforce any lien or interest in real property following the entry of an order under section 362(d)(4) as to that property in any prior bankruptcy case for a period of 2 years after entry of such an order, except that the debtor, in a subsequent case, may move for relief from such order based upon changed circumstances or for other good cause shown, after notice and a hearing.

"(21) under subsection (a), of any act to enforce any lien or interest in real property.

"(A) if the debtor is ineligible under section 109(g) to be a creditor in a bankruptcy case; or

"(B) if the bankruptcy case was filed in violation of a bankruptcy court order in a prior bankruptcy case prohibiting the debtor from being a debtor in another bankruptcy case;"

SEC. 304. DEBTOR RETENTION OF PERSONAL PROPERTY SECURITY.

"(2) in section 722, by inserting "in full at the time of dismissal of such case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to actions of such creditor; and"

"(2) in subsection (k); and

"(3) by adding the end the following:

"(6) in an initial chapter 7 of this title, not retain possession of personal property as to which a creditor has an allowed claim for the purchase price secured in whole or in part by a security interest in that personal property, unless, in the case of an individual debtor, the debtor, not later than 45 days after the first meeting of creditors under section 341(a), either—

"(A) enters into an agreement with the creditor pursuant to section 524(c) of this title with respect to the claim secured by such property; or

"(B) redeems such property from the security interest pursuant to section 722 of this title.

If the debtor fails to so act within the 45-day period referred to in paragraph (6), the stay under subsection (a)(2) of this title is terminated with respect to the personal property of the estate or of the debtor which is affected, such property shall no longer be property of the estate, and the creditor may take whatever action as to such property as is permitted by applicable nonbankruptcy law, unless the court determines on the motion of the trustee brought before the expiration of the applicable time set by section 521(a)(2), as so designated by this Act, by striking "consumer";

"(B) in subsection (a)(2)(B), as so designated by this Act, by striking "forty-five days after the filing of a notice of intent under this section" and inserting "30 days after the first date set for the meeting of creditors under section 341(a) of this title"; and

"(C) in subsection (a)(2)(C), as so designated by this Act, by inserting "and" as provided in section 362(h) of this title before the semicolon; and

"(D) by adding at the end the following:

"(4) if the debtor fails timely to take the action specified in subsection (a)(6) of this section, or in paragraphs (1) and (2) of section 362(h) of this title, with respect to property which a lessor or bailor owns and has leased, rented, or bailed to the debtor or as to which a creditor holds a security interest not otherwise voidable under this title, in that personal property, unless, in the case of an individual debtor, the debtor, not later than 45 days after the first meeting of creditors under section 341(a), either—

"(A) enters into an agreement with the creditor pursuant to section 524(c) of this title with respect to the claim secured by such property; or

"(B) redeems such property from the security interest pursuant to section 722 of this title.

If the debtor fails to so act within the 45-day period referred to in paragraph (6), the stay under subsection (a)(2) of this title is terminated with respect to the personal property of the estate or of the debtor which is affected, such property shall no longer be property of the estate, and the creditor may take whatever action as to such property as is permitted by applicable nonbankruptcy law, unless the court determines on the motion of the trustee brought before the expiration of the applicable time set by section 521(a)(2), as so designated by this Act, by striking "consumer";

"(B) in subsection (a)(2)(B), as so designated by this Act, by striking "forty-five days after the filing of a notice of intent under this section" and inserting "30 days after the first date set for the meeting of creditors under section 341(a) of this title"; and

"(D) by adding at the end the following:

"(4) if the debtor fails timely to take the action specified in subsection (a)(6) of this section, or in paragraphs (1) and (2) of section 362(h) of this title, with respect to property which a lessor or bailor owns and has leased, rented, or bailed to the debtor or as to which a creditor holds a security interest not otherwise voidable under this title, in that personal property, unless, in the case of an individual debtor, the debtor, not later than 45 days after the first meeting of creditors under section 341(a), either—

"(A) enters into an agreement with the creditor pursuant to section 524(c) of this title with respect to the claim secured by such property; or

"(B) redeems such property from the security interest pursuant to section 722 of this title.
SEC. 306. GIVING SECURED CREDITORS FAIR TREATMENT IN CHAPTER 13.

(a) In General.—Section 1325(a)(5)(B)(i) of title 11, United States Code, is amended to read as follows:

“(i) the plan provides that—

(1) the holder of such claim retain the lien securing such claim until the earlier of—

(aa) the payment of the underlying debt determined under nonbankruptcy law; or

(bb) discharge under section 1328; and

(2) if the case under this chapter is dismissed without completion of the plan, such lien shall also be retained by such holder to the extent recognized by applicable nonbankruptcy law; and

(b) RESTORING THE FOUNDATION FOR SECURED CREDITORS.—Section 1325(a) of title 11, United States Code, is amended by adding at the end the following:—

“For purposes of paragraph (5), section 506 shall not apply to a claim described in that paragraph if the creditor has a purchase money security interest securing the debt that is the subject of the claim, 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, a dwelling unit, or both, or furnishings, decorative arts, or other household goods of the debtor or a dependent of the debtor used as a residence; or

“(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 used as a residence; or

“(D) discharges under section 1328; and

“(2) the limitation under paragraph (1) shall not apply to an exemption claimed under sub-section (b)(3)(A) by a farmer family for the principal residence of that farmer.”.

SEC. 307. DOMICILIARY REQUIREMENTS FOR EXEMPTIONS.

Section 307(c)(3)(A) of title 11, United States Code, is amended—

(1) by striking “180 days” and inserting “730 days”;

(2) by striking “, or for a longer portion of such 180-day period than in any other place” and inserting “, or for a longer portion of such 730-day period than in any other place”;

(3) by striking the period and inserting “;”;

(4) by adding at the end the following:—

“(C) all replacements or additions;”;

(5) by inserting after paragraph (13) the following:

“(13A) ‘debtor’s principal residence’—

(1A) means a residential structure, including incidental property, without regard to whether that structure is attached to real property; and

(1B) includes an individual condominium or cooperative unit, mobile home, or trailer;”;

(6) by adding at the end the following:—

“(27A) ‘incidental property’ means, with respect to the property subject to the lease, the right to use a motor vehicle or trailer;”;

“(7) by inserting after paragraph (27), the following:—

“(C) ‘ incidental property’ means, with respect to a Debtor's principal residence—

“(A) property customarily 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 ON LUXURY GOODS.

Section 523(a)(2)(C) of title 11, United States Code, is amended—

(1) in subsection (b)(3)(A), as so designated by this Act, is amended—

(a) by striking “180 days” and inserting “730 days”;

(b) by striking “, or for a longer portion of such 180-day period than in any other place” and inserting “, or for a longer portion of such 730-day period than in any other place”;

(2) by adding at the end the following new subsection:

“(A) 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 when—

“(1) a real or personal property that the debtor or a dependent of the debtor uses as a residence; and

“(2) the payment of the underlying debt is located at a single State for such 730-day period; or

“(3) the liability under the lease will be assumed by the creditor or the trustee under chapter 7, the debtor may notify the creditor in writing that the lease is assumed, the liability under the lease be assumed by the debtor and not by the estate.

“(B) In the case of an individual under chapter 11 in which the debtor is a single individual, a debtor under chapter 11 in which the debtor is or is deemed to be a single individual, and a debtor under chapter 11 in which the debtor is an individual and in a case under chapter 13, if the debtor is the lessee with respect to personal property and the lease is not assumed in the plan confirmed by the court, the lease is deemed rejected as of the conclusion of the hearing on confirmation. If the lease is rejected, the stay under section 362 and any stay under section 365 is automatically terminated with respect to the property subject to the lease.

“(C) ADEQUATE PROTECTION OF LESSORS AND SECURED CREDITORS.—

(1) CONFIRMATION OF PLAN.—Section 1325(a)(5)(B)(i) of title 11, United States Code, is amended—

(A) in clause (i), by striking “and” at the end;

(B) in clause (ii), by striking “or” at the end; and

“(C) by adding at the end the following:

“(iii) if—

“(I) property to be distributed pursuant to this subsection is in the form of periodic payments, such payments shall be in equal monthly amounts; and

“(II) the holder of the claim is secured by personal property, the amount of such payments shall be greater than the amount needed to provide to the holder of such claim adequate protection during the period of the plan; or—

“(2) PAYMENTS.—Section 1325(a) of title 11, United States Code, is amended to read as follows:

“(a)(1) Unless the court orders otherwise, the debtor shall commence making payments not less than 30 days after the filing of the plan or the order for relief, whichever is earlier, in the amount—

“(A) proposed by the plan to the trustee; or

“(B) scheduled in a lease of personal 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 for the lessor; if a payment is made under subparagraph (A)(ii), any property subject to the claim secured by personal property to the extent the claim is attributable to the purchase of such property by the debtor 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.

“(2) A payment made under paragraph (1)(A) shall be retained by the trustee until confirmation or denial of confirmation. If a plan is confirmed after a stay, the trustee shall distribute any such payment in accordance with the plan as soon as is practicable. If a plan is not confirmed, the trustee shall retain any such payments not previously distributed and provide to creditors pursuant to paragraph (3) to the debtor, after deducting any unpaid claim allowed under section 503(b).

“(3) Subject to section 363, the court may, upon notice and a hearing, modify, increase, or reduce the payments required under this subsection pending confirmation of a plan.

“(D) Not later than 60 days after the date of filing of a case under this chapter, a debtor retaining possession of personal property subject to a lease or security interest in whole or in part to the purchase price of such property shall provide the lessor or secured creditor reasonable evidence of the maintenance of any required insurance coverage with respect to the use or ownership of the property and continue to do so for as long as the debtor retains possession of such property.”.

SEC. 310. LIMITATION ON LUXURY GOODS.

Section 523(a)(2)(C) of title 11, United States Code, is amended to read as follows:

“(1) for purposes of subparagraph (A):—

“(I) consumer debts owed to a single creditor and aggregating more than $750 for luxury goods or services incurred by an individual debtor or 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 or on or within 90 days before the order for relief under this title are presumed to be nondischargeable; and

“(ii) for purposes of this subparagraph—

“(I) the term ‘extension of credit under an open end credit plan’ means an extension of credit under an open end credit plan, within the meaning of the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.); and

“(II) the term ‘open end credit plan’ has the meaning given that term under section 103 of the
Consumer Credit Protection Act (15 U.S.C. 1692); and

"(III) the term 'luxury goods or services' does not include goods or services reasonably necessary for or maintenance of the debtor or a dependent of the debtor.'"

SEC. 311. AUTOMATIC STAY.

(a) In General.—Section 362(b) of title 11, United States Code, is amended—

(1) by inserting after paragraph (21), as added by this Act, the following:

"(23) under subsection (a)(3), of the commencement or continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor seeking possession of residential property—

"(A) on which the lessor resides as a tenant; and

"(B) with respect to which—

"(i) the debtor makes a rental payment that first becomes due under the unexpired specific term of a rental agreement or lease or under a tenancy applicable State or local rent control law, after the date of filing of the petition or during the 10-day period preceding the date of filing of the petition, if the lessor files with the court a certification that the debtor or has not made a payment for rent and serves a copy of the certification upon the debtor; or

"(ii) the debtor has a month to month tenancy (or one of shorter term) other than under applicable State or local rent control law where timely payments are made pursuant to clause (i) if the lessor files with the court a certification that the requirements of this clause have met and serves a copy of the certification upon the debtor.

"(24) under subsection (a)(3), of the commencement or continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor seeking possession of residential property, if during the 2-year 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) or (26) to a debtor with respect to the commencement or continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor seeking possession of residential property during the 30-day period preceding the date of filing of the petition, if the lessor files with the court a certification that such an eviction has been filed or the debtor has 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.

"(23) or (25) to a debtor with respect to the commencement or continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor seeking possession of residential property during the 30-day period preceding the date of filing of the petition, and serves a copy of the certification upon the debtor.

(2) by adding at the end of the flush material at the end of the subsection the following:

"With respect to the applicability of paragraph (23) or (25) to a debtor with respect to the commencement or continuation of a proceeding described in any such paragraph, the exception to the automatic stay shall become effective on the 15th day after the lessor files the meeting and notification requirements under any such paragraph, unless—

"(A) the debtor files a certification with the court and serves a copy of that certification upon the lessor on or before that 15th day, that—

"(i) contests the truth or legal sufficiency of the lessor's order; or

"(ii) states that the tenant has taken such action as may be necessary to remedy the subject of the certification under paragraph (23)(B)(i), except that no tenant may take advantage of such remedy more than once under this title; or

"(B) the court orders that the exception to the automatic stay shall not become effective, or provides any other relief, as applicable;";

and (3) by adding at the end of the flush material added by paragraph (2), the following:

"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 of the lessor's findings.

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 was made or a payment for rent and serves a copy of the certification upon the debtor or

"(ii) the debtor has a month to month tenancy (or one of shorter term) other than under applicable State or local rent control law where timely payments are made pursuant to clause (i) if the lessor files with the court a certification that the requirements of this clause have met and serves a copy of the certification upon the debtor.

"(23) or (25) to a debtor with respect to the commencement or continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor seeking possession of residential property during the 30-day period preceding the date of filing of the petition, if the lessor files with the court a certification that such an eviction has been filed or the debtor has 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.

"(23) or (25) to a debtor with respect to the commencement or continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor seeking possession of residential property during the 30-day period preceding the date of filing of the petition, and serves a copy of the certification upon the debtor.

"(3) by adding at the end of the flush material added by paragraph (2), the following:

"The term 'household goods' does not include—

"(i) works of art (unless by or of the debtor or the dependents of the debtor); or

"(ii) electronic entertainment equipment (except television equipment, including a television set, a radio, and 1 VCR); or

"(iii) items acquired as antiques; and

"(iv) jewelry (except wedding rings); and

"(v) computer (except as otherwise provided for in this section), motor vehicle (including a tractor or lawn tractor), boat, or a motorized recreational device, conveyance, vehicle, vessel, or aircraft.

(b) STUDY.—Not later than 2 years after the date of enactment of this Act, the Director of the Executive Office for United States Trustees shall submit a report to the Judiciary on the Judiciary of the House of Representatives containing its findings regarding utilization of the definition of household goods, as defined in section 522(f)(4) of title 11, United States Code, as added by this section, with respect to the avoidance of nonpossessory, nonpurchase money security interest in such goods under section 522(f)(1)(B) of title 11, United States Code, and the impact that section 522(f)(4) of that title, as added by this section, has had on debtors and on the bankruptcy courts. Such report may include recommendations for amendments to section 522(f)(4) of title 11, United States Code, consistent with the Director's findings.

SEC. 314. DEBT INCURRED TO PAY NON-DISCHARGEABLE DEBTS.

(a) In General.—Section 523(a)(1) of title 11, United States Code, is amended by inserting after paragraph (14) the following:

"(14A) incurred to pay a tax to a governmental unit, other than the United States, that would be nondischargeable under paragraph (1);"

(b) DISCHARGE UNDER CHAPTER 13.—Section 1328(a) of title 11, United States Code, is amended by striking paragraphs (1) through (3) and inserting the following:

"(1) provided for under section 1322(b)(5); "(2) of the kind specified in paragraph (3), (4), (5), (6), (8), or (9) of section 523(a); "(3) for restitution, or damages, awarded in a civil action against the debtor that caused personal injury to an individual or the death of an individual;"

SEC. 315. GIVING CREDITORS FAIR NOTICE IN CHAPTERS 7 AND 13 CASES.

(a) NOTICE.—Section 302 of title 11, United States Code, as amended by this Act, is amended—

(1) in subsection (c)—

"(A) by inserting "(1)" after "(c)"; and

"(B) by striking but the failure of such notice to contain such information shall not invalidate the legal effect of such notice;" and

(2) by adding at the end the following:

"(C) if, within 90 days prior to the date of the filing of a petition in a voluntary case, the creditor supplied the debtor in at least 2 communications within such 90-day period and if the creditor supplied the debtor with the current account number of the debtor and the address at which the creditor wishes to receive correspondence, then the debtor shall send any notice required under this title to the address provided by the creditor and such notice shall include the account number. In the event the creditor would be in violation of applicable nonbankruptcy law by sending any such communication within such 90-day period and if the creditor supplied the debtor in the last 2 communications with the current account number of the debtor and the address at which the creditor wishes to receive correspondence, then the debtor shall send any notice required under this title to the address provided by the creditor and such notice shall include the account number."

(b) STUDY.—Not later than 1 year after the date of enactment of this Act, the Director of the Executive Office for United States Trustees shall submit a report to the Judiciary on the Judiciary of the House of Representatives containing its findings regarding utilization of the definition of household goods, as defined in section 522(f)(4) of title 11, United States Code, consistent with the Director's findings.

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the creditor notice, such notice shall be given at that address.

“(f) An entity may file with the court a notice stating its address for notice in cases under chapter 7 of this title within 30 days following the filing of such notice, any notice in any case filed under chapter 7 or 13 given by the court shall be to that address unless specific notice is given in the petition commencing the case.

(g)(1) Notice given to a creditor other than as provided in this section shall not be effective notice unless that notice has been brought to the attention of the creditor. If the creditor designates a person or department to be responsible for receiving notices concerning bankruptcy cases and establishes reasonable procedures so that bankruptcy notices received by the creditor are to be delivered to such department or person, notice shall not be considered to have been brought to the attention of the creditor until received by such person or department.

(2) No sanction under section 362(k) or any other sanction that a court may impose on account of violations of the stay under section 362(a) or failure to comply with section 542 or 543 may be imposed on any action of the creditor unless the action takes place after the creditor has received notice of the commencement of the case effective under this section.

(3) Where an entity files a notice of stay other than under section 362(a), the court may, for cause shown, order an entity to file a notice of stay.

(4) The court may also order an entity to file a notice of stay in a case under this title if such an entity is a party to a case that is not commenced under this title.

(b) DEBTOR’S DUTIES.—Section 521 of title 11, United States Code, as amended by this Act, is amended—

(1) in subsection (a), as so designated by this Act, by striking paragraph (1) and inserting the following:

“(1) file—

(A) a list of creditors; and

(B) unless the court orders otherwise—

(i) a schedule of assets and liabilities; and

(ii) a schedule of current income and current expenditures;

(2) a statement of the debtor’s financial affairs and, if applicable, a certificate—

(I) of an attorney whose name is on the petition as the attorney for the debtor or any bankruptcy petition preparer signing the petition under section 110(b)(1) indicating that such attorney or bankruptcy petition preparer delivered to the debtor any notice required by section 321(b); or

(II) if no attorney for the debtor is indicated and no bankruptcy petition preparer signed the petition, of the debtor that such notice was obtained by the debtor;

(iv) copies of all payment advices or other evidence of payment, if any, received by the debtor from any employer of the debtor in the period 12 months preceding the filing of the petition;

(v) a statement of the amount of monthly net income, itemized to show how the amount is calculated;

(vi) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of filing; and

(2) by adding at the end the following:

“(e)(1) At any time, a creditor, in the case of an individual under chapter 7 or 13, may file with the court that the creditor requests the petition, schedules, and a statement of affairs filed by the debtor in the case, and the court shall make those documents available to the creditor who requests those documents.

“(2)(A) The debtors shall provide either a tax return or transcript to the court, the trustee, or the case shall be dismissed, unless the debtor demonstrates that the debtor is unable to provide such information due to circumstances beyond the control of the debtor.

(B) If a creditor has requested a tax return or transcript in subparagraaph (a), the debtor shall provide such tax return or transcript to the requesting creditor at the time the debtor provides the tax return or transcript to the trustee, or the case shall be dismissed, unless the debtor demonstrates that the debtor is unable to provide such information due to circumstances beyond the control of the debtor.

“(3)(A) At any time, a creditor in a case under chapter 13 may file with the court notice that the creditor requests the plan filed by the debtor in the case.

(B) The court shall make such plan available to the creditor to whom such plan is requested.

“(4) An individual in a case under chapter 7, 11, or 13 shall file with the court at the request of the United States trustee, or any party in interest—

(1) if the time filed with the taxing authority, the Federal tax returns or transcript thereof required under applicable law, with respect to the period from the commencement of the case until such time as the case is closed;

(2) if the time filed with the taxing authority, the Federal tax returns or transcript thereof required under applicable law, that were not filed with the taxing authority when the schedules and the amount contributed, 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 transcript thereof, described in paragraph (1) or (2); and

(4) in a case under chapter 13, a statement subject to the penalties of perjury by the debtor of the debtor’s current income and monthly, that shows how the amounts are calculated.

(A) beginning on the date that is 90 days after the close of the debtor’s tax year or 1 year after the order for relief, unless a plan has been confirmed; and

(B) thereafter, on the date that is 45 days before each anniversary of the confirmation of the plan until the case is closed.

“(h)(1) A statement referred to in section 341(a)(5) shall disclose—

(A) the amount and sources of income of the debtor;

(B) the identity of any person responsible with the debtor for the support of any dependent of the debtor; and

(C) the identity of any person who contributed, and the amount contributed, to the household in which the debtor resides.

“(2) The tax returns, amendments, and statement of income and expenditures described in subsection (a)(5) shall be available to the United States trustee, any bankruptcy administrator, any trustee, and any party in interest for inspection and copying, subject to the requirements of section 341(b).

“(j)(1) Not later than 180 days after the date of enactment of the Bankruptcy Reform Act of 2001, the Director of the Administrative Office of the United States Courts shall establish procedures for safeguarding the confidentiality of any tax information required to be provided under this section.

“(2) The procedures under paragraph (1) shall include restrictions on creditor access to tax information that is required to be provided under this section.

“(3) Not later than 1 year and 180 days after the date of enactment of the Bankruptcy Reform Act of 2001, the Director of the Administrative Office of the United States Courts shall prepare and submit to Congress a report that—

(A) assesses the effectiveness of the procedures under paragraph (1); and

(B) if in the Director’s judgment proposes legislation to—

(i) further protect the confidentiality of tax information;

(ii) provide penalties for the improper use by any person of the tax information required to be provided under this section;

(iii) make any other amendments to this Act of 2001, the Director of the Administrative Office of the United States Courts shall file with and submit to Congress the information required under section 341(a)(5).

“(f) An entity may file with the court a notice of stay other than under section 362(a), the court may, for cause shown, order an entity to file a notice of stay in a case under this title if such an entity is a party to a case that is not commenced under this title.

(2) The court may also order an entity to file a notice of stay in a case under this title if such an entity is a party to a case that is not commenced under this title.

(3) Where an entity files a notice of stay other than under section 362(a), the court may, for cause shown, order an entity to file a notice of stay.

(4) The court may also order an entity to file a notice of stay in a case under this title if such an entity is a party to a case that is not commenced under this title.

(5) The court may also order an entity to file a notice of stay in a case under this title if such an entity is a party to a case that is not commenced under this title.

(6) The court may also order an entity to file a notice of stay in a case under this title if such an entity is a party to a case that is not commenced under this title.
income of the applicable State for a family of 4
or fewer individuals last reported by the Bureau
of the Census, plus $325 per month for each indi-
vidual in excess of 4,
the plan may not provide for payments over a
period that is longer than 3 years, unless the court,
for cause, approves a longer period, but the
court may not approve a period that is longer
than 5 years.
(2) in section 1325(b)(1)(B), by striking “three-
year period” and inserting “applicable commit-
ment period”;
and
(3) in section 1325(b), as amended by this Act,
by adding at the end the following:

(4) For purposes of this subsection, the ‘ap-
pllicable commitment period’—
(A) subject to subparagraph (B), shall be—
(1) 3 years; or
(ii) not less than 5 years, 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 appli-
cable State for 1 earner last reported by the Bu-
reau of the Census;
(B) in the case of a debtor in a household of
2 or 3 individuals, the highest median family
income of the applicable State for a family of
the same number or fewer individuals last re-
ported by the Bureau of the Census; or
(III) exceeding 4 individuals, the highest median fam-
ily income of the applicable State for a family of
4 or fewer individuals last reported by the Bu-
reau of the Census, plus $325 per month for each individual
in excess of 4; and
(B) may be less than 3 or 5 years, whichever
is applicable under subparagraph (A), but only if
the plan provides for payment in full of all al-
lowed unsecured claims over a shorter period.”;
and
(4) in section 1328(c), by striking “three
years” and inserting “the applicable commit-
ment period under section 1325(b)(1)(B)”.

SEC. 319. SENSE OF CONGRESS REGARDING EX-
PANION OF RULE 9011 OF THE FED-
ERAL RULES OF BANKRUPTCY PRO-
CEDURE.

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 re-
quirement that all documents (including sched-
ales), signed and unsigned, submitted to the court
by the debtor or the debtor’s attorney, who repres-
ented themselves and debtors who are represented by
an attorney be submitted only after the debtor or
the debtor’s attorney has made reasonable in-
quiry, to the extent necessary to take account of any
information contained in such documents is—
(1) well grounded in fact; and
(2) warranted by existing law or a good-faith
argument for the extension, modification, or re-
versal of existing law.

SEC. 320. PROMPT RELIEF FROM STAY IN INDIV-
IDUAL CASES.

Section 306(e) of title 11, United States Code, is amended—

(1) by inserting “(1)” after “(e)”;
and
(2) by adding at the end the following:
(1) in paragraph (1), in the case of an individual
filing under chapter 7, 11, or 13, the stay under subsection (a) shall termi-
nate 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 6-month period beginning on the date of
the request; or
(B) that 60-day period is extended—
(i) by agreement of all parties in interest; or
(ii) 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 INDIV-
IDUALS.

(a) PROPERTY OF THE ESTATE.—

(1) In general.—Subchapter I of chapter 11 of title 11, United States Code, is amended by add-
ing at the end the following: ‘‘§1115. Property of the estate

(a) In a case concerning an individual debt-
or, property of the estate, in addition to the property specified in section 541—
(1) all property of the kind specified in sec-
tion 541 that the debtor acquires after the con-
mencement of the case but before the case is
closed, dismissed, or converted to a case under
chapter 7, 12, or 13, whichever occurs first; and
(2) earnings from services performed by
the debtor after the commencement of the case
but before the case is closed, dismissed, or con-
verted to a case under chapter 7, 12, or 13, whichever
occurs first.
(2) Except as provided in section 1104 or a
confirmed plan or order confirming a plan, the
debtor shall remain in possession of all property
of the estate.”.

(2) CLERICAL AMENDMENT.—The table of sec-
tions for chapter 11 of title 11, United States Code, is amended by adding at the end of the
matter relating to subchapter I the following:

‘‘1115. Property of the estate.”.

(b) CONTENTS OF PLAN.—Section 1123(a) of
title 11, United States Code, is amended—

(1) in paragraph (6), by striking “and” at the end;

(2) in paragraph (7), by striking the period
and inserting “;” and “;” and

(3) by adding at the end the following:
(8) in a case concerning an individual, pro-
vide for the payment to creditors through the
plan of all or such portion of earnings from per-
sonal services performed by the debtor after the
commencement of the case or other future in-
come of the debtor as is necessary for the execu-
tion of the plan.”.

(c) CONFIRMATION OF PLAN.—

(1) REQUIREMENT RELATING TO VALUE OF
PROPERTY.—Section 1129(a) of title 11, United States Code, is amended by adding at the end the fol-
lowing:

(15) In a case concerning an individual in
which the holder of an allowed unsecured claim
objects to the confirmation of the plan—
(A) the value of the property to be distrib-
uted under the plan on account of such claim is,
as of the effective date of the plan, not less than
the amount of such claim; or
(B) the value of the property to be distrib-
uted under the plan on account of such claim is
less than—
(i) the projected disposable income (as that
term is defined in section 1325(b)(2)) to be
received during the 5-year period beginning on
the date that the plan becomes effective; or
(ii) the value of the property to be distrib-
uted under the plan on account of such claim
from any other source.

(2) REQUIREMENT RELATING TO IN-
TERESTS IN PROPERTY.

(7) any amount—
(A) withheld by an employer from the wages
of employees for payment as contributions to
an employee benefit plan subject to title I of
the Employee Retirement Income Security Act
of 1974 (29 U.S.C. 1001 et seq.); or
under an employee benefit plan which is a governmental
plan under section 414(d) of the Internal
Revenue Code of 1986, a deferred compensation plan
under section 457 of the Internal Revenue Code
of 1986, or a tax-deferred annuity under section
403(b) of the Internal Revenue Code of 1986, ex-
cept that amount shall not constitute disposable
income, as defined in section 1325(b)(2) of this
title;

(2) the plan, as modified, shall become the
plan, after there has been under section 1125, as the court may direct, notice
and a hearing, and such modification is approved.”.

SEC. 322. EXCLUDING EMPLOYEE BENEFIT PLAN
PARTICIPANT CONTRIBUTIONS AND
OTHER PROPERTY FROM THE E-
STATE.

(a) In General.—Section 541(b) of title 11, United States Code, is amended by inserting after paragraph (6), as added by this Act, the fol-
lowing:

(7) any amount—
(A) withheld by an employer from the wages
of employees for payment as contributions to
an employee benefit plan subject to title I of
the Employee Retirement Income Security Act
of 1974 (29 U.S.C. 1001 et seq.); or
under an employee benefit plan which is a governmental
plan under section 414(d) of the Internal
Revenue Code of 1986, a deferred compensation plan
under section 457 of the Internal Revenue Code
of 1986, or a tax-deferred annuity under section
403(b) of the Internal Revenue Code of 1986, ex-
cept that amount shall not constitute disposable
income, as defined in section 1325(b)(2) of this
title;

(2) the plan, as modified, shall become the
plan, after there has been under section 1125, as the court may direct, notice
and a hearing, and such modification is approved.”.

(b) Clerical Amendment.—The table of sec-
tions for chapter 11 of title 11, United States Code, is amended by adding at the end of the
matter relating to subchapter I the following:

(7) any amount—
(A) withheld by an employer from the wages
of employees for payment as contributions to
an employee benefit plan subject to title I of
the Employee Retirement Income Security Act
of 1974 (29 U.S.C. 1001 et seq.); or
under an employee benefit plan which is a governmental
plan under section 414(d) of the Internal
Revenue Code of 1986, a deferred compensation plan
under section 457 of the Internal Revenue Code
of 1986, or a tax-deferred annuity under section
403(b) of the Internal Revenue Code of 1986, ex-
cept that amount shall not constitute disposable
income, as defined in section 1325(b)(2) of this
title; or

(2) the plan, as modified, shall become the
plan, after there has been under section 1125, as the court may direct, notice
and a hearing, and such modification is approved.”.

SEC. 323. EXCLUSIVE JURISDICTION IN MATTERS
INVOLVING BANKRUPTCY PROFESSION-
ALS.

(a) In General.—Section 1334 of title 28, United States Code, is amended—

(1) in subsections (a) and (b), by striking “Notwith-
standing” and inserting “Except as provided in
subsection (e)(2), and notwithstanding”; and
(2) by striking subsection (e) and inserting the following:

"(e) The district court in which a case under title 11 is commenced or is pending shall have exclusive jurisdiction over—

"(1) of all the property, wherever located, of the debtor as of the date of commencement of such case, and of property of the estate; and

"(2) over all claims or causes of action that arose or might arose in connection of section 327 of title 11, United States Code, or rules relating to disclosure requirements under section 327."

(b) APPLICABILITY.—This section shall only apply to cases filed after the date of enactment of this Act.

SEC. 324. UNITED STATES TRUSTEE PROGRAM FILING FEE INCREASE.

(a) ACTION UNDER CHAPTER 7 OR 13 OF TITLE 11, UNITED STATES CODE.—Section 1930(a)(6) of title 28, United States Code, is amended by striking paragraph (1) and inserting the following:

"(1) for a case commenced under chapter 7 of title 11, $1,690; or

"(2) under chapter 13 of title 11, $1,590."

(b) UNITED STATES TRUSTEE SYSTEM FUND.—Section 359(a)(b) of title 28, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

"(1)(A) 40.63 percent of the fees collected under section 1930(a)(1)(A) of this title in cases commenced under chapter 7 of title 11, and

"(B) 70.00 percent of the fees collected under section 1930(a)(1)(B) of this title in cases commenced under chapter 13 of title 11;

(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 percent".

(c) DEPOSIT OF MISCELLANEOUS BANKRUPTCY FEES.—Section 406(b) of the Judiciary Appropriations Act, 1990 (28 U.S.C. 1991 note) is amended by striking "pursuant to 28 U.S.C. 1930(a)(1)" and inserting "pursuant to 28 U.S.C. section 1930(a)(1)",

(1) in paragraph (4), by striking "30.76 percent of the fees hereafter collected under 28 U.S.C. section 1930(a)(1) and 25 percent of the fees hereafter collected under 28 U.S.C. section 1930(a)(3) shall be deposited as offsetting receipts to the fund established under 28 U.S.C. section 1931" and inserting "under section 1930(b) of title 28, United States Code, and 31.25 percent of the fees collected under section 1930(a)(1) and 30.00 percent of the fees collected under section 1930(a)(1)(B) of this title, 25 percent of the fees hereafter collected under 28 U.S.C. section 1930(a)(3) shall be deposited as offsetting receipts to the fund established under 28 U.S.C. section 1931".

SEC. 325. SHARING OF COMPENSATION.

Section 504 of title 11, United States Code, is amended by adding at the end the following:

"(c) This section shall not apply with respect to sharing, or agreeing to share, compensation with a bona fide public service attorney referral program on that plan, in accordance with non-Federal law regulating attorney referral services and with rules of professional responsibility applicable to attorney acceptance of referrals."

SEC. 326. FAIR VALUATION OF COLLATERAL.

Section 506 of title 11, United States Code, is amended—

(1) inserting "(1)" after "(a)"; and

(2) by adding at the end the following:

"(2) In the case of an individual debtor under chapter 7 and 11, such value with respect to that personal property securing an allowed claim shall be determined based on the replacement value of such property as of the date of filing the petition without deduction for costs of sale or marketing. With respect to property acquired for personal, family, or household purpose, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined."
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 REFERENCE OF SECUR-
ITY INTEREST.

Subparagraphs (A), (B), and (C) of section 547(e)(2) of title 11, United States Code, are each amended by striking “10” each place it appears and inserting “30”.

SEC. 404. EXECUTORIAL CONTRACTS AND UNEX-
PIRED LEASES.

(a) IN GENERAL.—Section 363(d)(4) of title 11, United States Code, is amended to read as follows:

“(4)(A) Subject to subparagraph (B), in any case under any chapter of this title, an unex- pired lease of nonresidential property under which the debtor is the lessee shall be deemed rejected, and the trustee shall immediately surrender that nonresidential real property to the lessor, if the trustee does not assume or reject the unexpired lease by the earlier of—

“(i) the date that is 120 days after the date of the order for relief; or

“(ii) the date of the entry of an order confirming a plan.

“(B)(i) The court may extend the period determin- ed under subparagraph (A), prior to the ex- piration of the 120-day period, for 90 days upon motion of the lessor for relief.

“(ii) If the court grants an extension under clause (i), the court may grant a subsequent ex- tension only upon prior written consent of the lessor in each instance.

(b) EXCEPTION.—Section 365(f)(1) of title 11, United States Code, is amended by striking “subsection the first place it appears and inserting “subsection”.

SEC. 405. CREDITORS AND EQUITY SECURI-
TY HOLDERS COMMITTEES.

(a) APPOINTMENT.—Section 1102(a) of title 11, United States Code, is amended by adding at the end the following:

“(a) On request of a party in interest and after notice and a hearing, the court may order the United States trustee to change the membership of a committee appointed under this subsection, if the court determines that the change is necessary to ensure adequate representation of creditors or equity security holders. The court may order the United States trustee to increase the number of members of a committee to include a creditor that is a small business concern (as described in section 1123(a)(1) of the Small Business Act (15 U.S.C. 632(a)(1))), if the court determines that the creditor holds claims (of the kind represented by the committee) the aggregate amount in value in comparison to the annual gross revenue of that creditor, is disproportionately large.

(b) INFORMATION.—Section 1102(b) 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; and

“(B) solicit and receive 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 striking “dwelling” the first place it ap-
pears; and

(2) by striking “ownership or” and inserting “ownership;”.

(3) by striking “housing” the first place it ap-
pears; and

(4) by striking “but only” and all that follows throu-
hrough “section 7-209”.

(b) Section 546 of title 11, United States Code, is amended by adding at the end the following:

“(7) In determining the amount of reasonable compensation to be awarded to a trustee, the court shall treat such compensation as a con-
pensation, based on section 326 of this title.

SEC. 407. AMENDMENTS TO SECTION 330(a) OF
TITLE 11, UNITED STATES CODE.

Section 330(a) of title 11, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking “(A) In” and inserting “In;” and

(B) by inserting “to an examiner, trustee under chapter 11, or professional person” after “awarded;” and

(2) by adding at the end the following:

“(7) In determining the amount of reasonable compensation to be awarded to a trustee, the court shall treat such compensation as a com-
pensation, based on section 326 of this title.”

SEC. 408. POSTPENSION DISCLOSURE AND SO-
LICITATION.

Section 1121(d) of title 11, United States Code, is amended by adding at the end the following:

“(g) Notwithstanding subsection (b), an ac-
ceptance or rejection of the plan may be solic-
ited from a holder of a claim or interest if such solici-
tication complies with applicable nonbankruptcy law and if such holder was solicited be-
fore the commencement of the case in a manner com-
plying with applicable nonbankruptcy law.”

SEC. 409. PREFERENCES.

Section 547(c) of title 11, United States Code, is amended by adding at the end the following:

“(B) is not and was not, within 2 years before
the date of the filing of the petition, a director,
officer, or an insider;

“(C) Does not have an interest materially ad-
verse to the interest of the estate or of any class of
creditors or equity security holders, by reason
of any direct or indirect relationship to, connec-
tion with, or interest in, the debtor, or for any
other reason;”.

SEC. 410. VENUE OF CERTAIN PROCEEDINGS.

Section 1392(b) of title 11, United States Code, is amended by adding after “$5,000”.

SEC. 411. PERIOD FOR FILING PLAN UNDER CHAP-
TER 11.

Section 1125 of title 11, United States Code, is amended—

(1) in paragraph (2), by striking “subsection”.

(2) by adding at the end the following:

“(C) does not have an interest materially ad-
verse to the interest of the estate or of any class of
creditors or equity security holders, by reason
of any direct or indirect relationship to, connec-
tion with, or interest in, the debtor, or for any
other reason;”.

SEC. 412. FEES ARISING FROM CERTAIN OW-
NERSHIP CONVEYANCES.

Section 522(a)(16) of title 11, United States Code, is amended—

(1) by striking “dwelling” the first place it ap-
pears; and

(2) by striking “ownership or” and inserting “ownership;”.

(3) by striking “housing” the first place it ap-
pears; and

(4) by striking “but only” and all that follows throu-
hrough “section 7-209”.

(c) Section 522(a)(16) of title 11, United States Code, is amended—

(1) by striking “dwelling” the first place it ap-
pears; and

(2) by striking “ownership or” and inserting “ownership;”.

(3) by striking “housing” the first place it ap-
pears; and

(4) by striking “but only” and all that follows throu-
hrough “section 7-209”. 
(2) by adding at the end the following:

“(c)(1)(A) For purposes of this subsection, the term ‘assurance of payment’ means—

(i) a cash deposit;
(ii) a letter of credit;
(iii) a certificate of deposit;
(iv) a surety bond;
(v) a prepayment of utility consumption; or
(vi) another form of security that is mutually agreed upon between the utility and the debtor or the trustee.

(B) For purposes of this subsection an administrative expense priority shall not constitute an assurance of payment.

“(2) Subject to paragraphs (3) and (4), with respect to a case filed under chapter 11, a utility referred to in subparagraph (a)(1) ‘as a utility’ means, to the extent of the amount of the charges for 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) On request of a party in interest and after notice and a hearing, the court may order modification of the amount of an assurance of payment under paragraph (2).

(B) Notwithstanding a determination under this paragraph whether an assurance of payment is adequate, the court may not consider—

(i) the absence of security before the date of filing of the petition;

(ii) the payment by the debtor of charges for utility service in a timely manner before the date of filing of the petition; or

(iii) the availability of an administrative expense priority.

“(4) Notwithstanding any provision of law, with respect to a case subject to this subsection, no utility may waive 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 1930 of title 28, United States Code, is amended—

(1) in subsection (a), by striking ‘‘Notwithstanding section 1930 of title 28, United States Code, as so designated by section 101(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 the following:

“(4) not more than $2,000,000 (excluding debts owed to 1 or more affiliates or in connection with the formation of 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) In making a determination under this subsection the bankruptcy court may waive for such debtors other fees prescribed under subsections (b) and (c).

“(3) This subsection does not restrict the district court or the bankruptcy court from waiving, in accordance with Judicial Conference policy, fees prescribed under this section for other debtors and creditors.

SEC. 419. MORE COMPLETE INFORMATION REGARDING ASSETS OF THE ESTATE.

(A) IN GENERAL.—The Advisory Committee on Bankruptcy of the Judicial Conference of the United States, after consideration of the views of the Director of the Executive Office for United States Trustees, shall propose for adoption agreements of Banks of Bankruptcy Creditor 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.

(B) Information referred to in paragraph (1) is the value, operations, and profitability of any closely held corporation, partnership, or of any other entity in which the debtor holds a substantial or controlling interest.

(b) PURPOSE.—The purpose of the rules and reports under subsection (a) shall be to assist parties in interest to determine whether 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 OF A TRUSTEE IN AN EMPLOYEE BENEFIT PLAN.

(a) IN GENERAL.—Section 521(a) of title 11, United States Code, as so designated by section 101(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 the following:

“(4) unless a trustee is serving in the case, if at the time of commencement of a case under chapter 11, the plan administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001)) of an employer benefit plan continues to perform the obligations required of the administrator.

(b) DUTIES OF TRUSTEES.—Section 704(a) of title 11, United States Code, as so designated by section 101(d) of this Act, is amended by adding the following:

(1) by adding a period at the end; and

(2) in paragraph (1), by striking ‘‘; and’’ at the end;

SEC. 421. 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 complexity of the case, the benefit of additional information to creditors and to the interests of the estate, and the cost of providing additional information’’;

(2) 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; and

“(3) the court may conditionally approve a disclosure statement subject to final approval after notice and a hearing; and

(b) DUTIES OF TRUSTEE.—Section 1125(a)(3) of title 11, United States Code, is amended by inserting ‘‘(or)’’ after ‘‘small’’.

SEC. 433. STANDARD FORM DISCLOSURE STATEMENT AND PLAN.

Within a reasonable period of time after the date of commencement of this Act, the Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall propose for adoption standard form disclosure statements and plans of reorganization for small business debtors (as defined in section 101 of title 11, United States Code, as amended by this Act), designed to achieve a practical balance between—

(1) the reasonable needs of the courts, the United States trustee, creditors, and other parties in interest for reasonably complete information; and

(2) economy and simplicity for debtors.

SEC. 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 302 the following:

“(308. Debtor 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 financial and other reports containing information including—

“(1) the debtor’s profitability;

“(2) reasonable approximations of the debtor’s projected cash receipts and cash disbursements over a reasonable period; and

“(3) the following of actual cash receipts and disbursements with projections in prior reports;

“(4)(A) whether the debtor is—

“(i) in compliance in all material respects with periodic reporting requirements imposed by this title and the Federal Rules of Bankruptcy Procedure; and

(b) CONFORMING AMENDMENT.—Section 1102(a)(3) of title 11, United States Code, is amended by inserting ‘‘debtor’’ after ‘‘small’’.

SEC. 435. 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 complexity of the case, the benefit of additional information to creditors and to the interests of the estate, and the cost of providing additional information’’;

(2) 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; and

“(3) the court may conditionally approve a disclosure statement subject to final approval after notice and a hearing; and

(b) DUTIES OF TRUSTEE.—Section 1125(a)(3) of title 11, United States Code, is amended by inserting ‘‘(or)’’ after ‘‘small’’.

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 statement and plans of reorganization for small business debtors (as defined in section 101 of title 11, United States Code, as amended by this Act), designed to achieve a practical balance between—

(1) the reasonable needs of the courts, the United States trustee, creditors, and other parties in interest for reasonably complete information; and

(2) economy and simplicity for debtors.

SEC. 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 302 the following:

“(308. Debtor 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 financial and other reports containing information including—

“(1) the debtor’s profitability;

“(2) reasonable approximations of the debtor’s projected cash receipts and cash disbursements over a reasonable period; and

“(3) the following of actual cash receipts and disbursements with projections in prior reports;

“(4)(A) whether the debtor is—

“(i) in compliance in all material respects with periodic reporting requirements imposed by this title and the Federal Rules of Bankruptcy Procedure; and

"
“(ii) timely filing tax returns and other required government filings and paying taxes and other administrative claims when due;

(B) if the debtor is not in compliance with the requirements referred to in subparagraphs (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 why, at what cost, and when 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 in chapter 11 of title 11, United States Code, is amended by adding after the item relating to section 307 the following:

“308. Debtor reporting requirements.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 60 days after the date on which rules are prescribed under section 207 of title 28, United States Code, to establish forms to be used to comply with section 308 of title 11, United States Code, as added by subsection (a).

SEC. 435. UNIFORM REPORTING RULES AND REQUIREMENTS FOR SMALL BUSINESS CASES.

(a) PROPOSAL OF RULES AND FORMS.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall propose for adoption amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms to be used by small business debtors to file periodic financial and other reports containing information, including information relating to—

(1) the debtor's profitability;

(2) the debtor's cash receipts and disbursements; and

(3) whether the debtor is timely filing tax returns and paying taxes and other administrative claims when due.

(b) PURPOSE.—The rules and forms proposed under subsection (a) shall be designed to achieve a practical balance among—

(1) the reasonable needs of the bankruptcy court, the United States trustee, creditors, and other parties in interest for reasonably complete information;

(2) the small business debtor's interest that required reports be easy and inexpensive to complete; and

(3) the interest of all parties that the required reports help the small business debtor to understand the small business debtor's financial condition and plan the small business debtor's future.

SEC. 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 petition not later than 7 days after the date of the order for relief—

‘‘(A) its most recent balance sheet, statement of operations, and cash-flow statement, Federal income tax return, and if applicable, Federal tax returns for the 2-year period ending on the date of the order for relief; and

‘‘(B) a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed;

‘‘(2) attend, through its senior management personnel and counsel, meetings scheduled by the court or the United States trustee, including initial debtor interviews, scheduling conferences, and meetings of creditors convened under section 341 unless the court states that requirements and hearings are necessary upon a finding of extraordinary and compelling circumstances;”

“(C) participating in the confirmation of a plan; and

“(B) file all postpetition financial and other reports, including reports required pursuant to the Official Rules of Bankruptcy Procedure or by local rule of the district court;

(5) subject to section 363(c)(2), maintain insurance customary and appropriate to the industry;

(6)(A) timely file tax returns and other required government filings; and

(2) subject to section 363(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, times, after reasonable prior written notice, unless notice is waived by the debtor.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 11, United States Code, 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 SCHEDULING AND CONFIRMATION DEADLINES.

Section 1121 of title 11, United States Code, is amended by striking subsection (e) and inserting the following:

“(e) In a small business case—

“(1) only the debtor may file a plan until after 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, or 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), and the time fixed in section 1129(e), within which the plan shall be confirmed, may be extended only if—

“(A) the debtor, after providing notice to parties in interest (including the United States trustee), demonstrates by a preponderance of the evidence that it is more likely than not that the court will confirm a plan within a reasonable period of time;

“(B) a new deadline is imposed at the time the extension is granted; and

“(C) the order extending time is signed before the existing deadline has expired.”.

SEC. 438. PLAN CONFIRMATION DEADLINE.

Section 1129 of title 11, United States Code, is amended by adding at the end the following:

“(ee)(1) 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 1121(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 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 506(a) of title 11, United States Code, is amended—

(1) in paragraph (3)—

(A) in subparagraph (G), by striking “and” at the end; and

(B) by redesignating subparagraph (H) as subparagraph (I); and

(C) by inserting after subparagraph (G) the following:

“(H) in small business cases (as defined in section 101 of title 11), performing the additional duties described in title 11 pertaining to such cases; and”;

(2) in paragraph (5), by striking “and” at the end;

(3) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

“(I) perform each of such additional duties as—

“(A) conduct an initial debtor interview as soon as practicable after the entry of order for relief but before the first meeting scheduled under section 341(a) of title 11 at which the United States trustee shall—

“(i) begin to investigate the debtor's viability;

“(ii) inquire about the debtor's business plan; and

“(iii) explain the debtor's obligations to file monthly operating reports and other required reports;

“(iv) attempt to develop an agreed scheduling order; and

“(v) inform the debtor of other obligations;

“(B) if the debtor is to be appropriate and advisable, visit the appropriate premises of the debtor and ascertain the state of the debtor’s books and records and verify that the debtor has filed its tax returns; and

“(C) review and monitor diligently the debtor's activities, to identify as promptly as possible whether the debtor will be unable to confirm a plan and

“(D) in any case in which the United States trustee finds material grounds for any relief under section 1102 of title 11, the United States trustee shall apply promptly after making that finding to the court for relief.”.

SEC. 440. SCHEDULING CONFERENCES.

Section 105(d) of title 11, 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 expeditious and economical resolution of the case; and

(2) by adding at the end the following:

“(2)(I) Except as provided in paragraph (2) of this subsection, 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 ending on the date of the order for relief entered with respect to the petition;”;

“(C) was a debtor in a small business case in which a plan was confirmed in the 2-year period ending on the date of the order for relief entered with respect to the petition; or

“(D) is an entity that has succeeded to substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C),

(2) by striking the period at the end and adding the following:

“(III) Except as provided in paragraph (2) of this subsection, the provisions of subsection (a) do not apply in a case in which the debtor—

(A) to an involuntary case involving no collusion by the debtor with creditors; or

(B) to the filing of a petition—

(C) by inserting after subparagraph (G) the following:

“(A) to an involuntary case involving no collusion by the debtor with creditors; or

(B) to the filing of a petition—

(C) by inserting after subparagraph (G) the following:

“(A) to an involuntary case involving no collusion by the debtor with creditors; or

(B) to the filing of a petition—

(C) by inserting after subparagraph (G) the following:

“(A) to an involuntary case involving no collusion by the debtor with creditors; or

(B) to the filing of a petition—

(C) by inserting after subparagraph (G) the following:
SEC. 442. EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION AND APPOINTMENT OF TRUSTEE.

(a) EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION.—Section 1112 of title 11, United States Code, is amended—

(1) by striking subsection (b) and inserting the following:

"(b)(1) Except as provided in paragraph (2) of this subsection, subsection (c) of this section, and section 503(b) of this title, if on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 11 of this title, if the court finds that—

(A) the internal and external factors that cause small businesses, especially sole proprietorships, to become insolvent in cases under chapter 7, 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.

(b) ADITIONAL GROUNDS FOR APPOINTMENT OF TRUSTEE.—Section 1104(a) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking "or" at the end;

(2) in paragraph (2), by striking the period at the end and inserting ": or";

and

(3) by adding at the end the following:

"(3) if grounds exist to convert or dismiss the case under section 1112, but the court determines that the appointment of a trustee or an examiner is in the best interests of creditors and the estate.".

SEC. 443. STUDY OF OPERATION 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 Trustees, and the Director of the Administrative Office of the United States Courts shall—

(1) conduct a study to determine—

(A) the internal and external factors that cause small businesses, especially sole proprietorships, to become insolvent in cases under chapter 7, United States Code, and that cause certain small businesses to successfully complete cases under chapter 11 of such title; and

(B) how Federal laws relating to bankruptcy may be made more effective and efficient in assisting small businesses to remain viable; and

(2) submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report summarizing that study.

SEC. 444. PAYMENT OF INTEREST.

Section 362(d)(3) of title 11, United States Code, is amended—

(1) by inserting "or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later" after "90-day period"; and

(2) by striking subparagraph (B) and inserting the following:

"(B) the debtor has commenced monthly payments that—

(i) may, in the debtor's sole discretion, notwithstanding section 363(c)(2), be made from rents or other income generated before or after the commencement of the case by or from the property to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unsecured statutory lien); and

(ii) are in an amount equal to interest at the then applicable nondefault contract rate of interest on the value of the creditor's interest in the real estate; or

SEC. 445. PENALTIES FOR ADMINISTRATIVE EXPENSES.

Section 503(b)(1) of title 11, United States Code, is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(7) 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 relating to a failure to operate or penalty provisions, for the period of 2 years following the later of the rejection date or the date of actual termination, of actual lessee payments, without reduction or setoff for any reason whatsoever 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)."

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

SEC. 501. PETITION AND PROCEEDINGS RELATED TO PETITION.

(a) TECHNICAL AMENDMENT RELATING TO MUNICIPALITIES.—Section 921(d) of title 11, United States Code, is amended by inserting "notwithstanding standing section 301(b)" before the period at the end.

(b) CONFORMING AMENDMENT.—Section 301 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "A voluntary"; and

(2) by striking the last sentence and inserting the following:

"(b) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.".

SEC. 502. APPLICATION OF OTHER SECTIONS TO CHAPTER 9.

Section 901(a) of title 11, United States Code, is amended—

(1) by inserting "555, 556," after "553,"; and

(2) by inserting "559, 560, 361, 562," after "557,".

TITLE VI—BANKRUPTCY DATA

SEC. 601. IMPROVED BANKRUPTCY STATISTICS.

(a) IN GENERAL.—Chapter 6 of title 28, United States Code, is amended by adding at the end the following:

"§ 159. Bankruptcy statistics

"(a) The clerk of each district 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').

"(b) The Director shall—

(1) compile the statistics referred to in subsection (a);

(2) make the statistics available to the public; and

(3) not later than October 31, 2002, and annually thereafter, prepare, and submit to Congress a report concerning the information collected under subsection (a) that contains an analysis of the information.

(c) The compilation required under subsection (b) shall—

(1) be itemized, by chapter, with respect to title 11;

(2) be presented in the aggregate and for each district; and

(3) include information concerning—

(A) the total assets and total liabilities of the debtors described in subsection (a), and in each category of assets and liabilities, as reported in the schedules prescribed pursuant to section 2075 of this title and filed by those debtors;

(B) the current monthly income, average income, and average expenses of those debtors as reported on the schedules and statements that each such debtor files under sections 521 and 1322 of title 11;

(C) the aggregate amount of debt discharged in the reporting period, determined as the difference between the total amount of debt and obligations of a debtor reported on the schedules and the amount of such debt reported in categories which are predominantly nondischargeable;

(D) the average period of time between the filing of the petition and the closing of the case; and

(E) for the reporting period—

(1) the number of cases in which a reaffirmation was filed; and

(2) the total number of reaffirmations filed; and

(3) of those cases in which a reaffirmation was filed, the number of cases in which the debtor was not represented by an attorney; and
“(III) of those cases in which a reaffirmation was filed, the number of cases in which the reaffirmation was approved by the court; 

(4) with respect to cases filed under chapter 12 of title 11 of the Bankruptcy Code, the number of chapters 12 cases that concluded, distinguished by the type of case (whether a single chapter 12 case or a case involving multiple chapters 12) by the number of days from the date the case was filed until its final disposition; 

(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 what is claimed, and 

(ii) the number of final orders determining the value of property securing a claim issued; 

(iii) the number of cases dismissed, the number of cases dismissed for failure to pay payments under the plan, the number of cases dismissed under section 705(b) of title 11, the number of cases dismissed at the end of each reporting period since the case was filed; 

(iv) receipts, cash disbursements and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief; 

(v) compliance with title 11, whether or not recoveries of the holders, expressed in aggregate dollar values and, in the case of claims, as a percentage of total claims of the class allowed. 

(b) REQUIRED INFORMATION.—(1) information about the standard industry classification, published by the Department of Commerce, for the businesses conducted by the debtor. 

(2) length of time the case has been pending; 

(3) number of full-time employees as of the date the order for relief; and at the end of each reporting period since the case was filed; 

(4) cash receipts, cash disbursements and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief; 

(5) compliance with title 11, whether or not tax returns and tax payments since the date of the order for relief have been timely filed and made; 

(6) all professional fees approved by the court in the case, the amount in the reporting period and cumulative amount of the order for relief (separately reported, for the professional fees incurred by or on behalf of the debtor, between those that would have been incurred absent a bankruptcy case and those not); and 

(7) plans of reorganization filed and confirmed, and with respect thereto, by class, the recoveries of the holders, expressed in aggregate dollar values and, in the case of claims, as a percentage of total claims of the class allowed. 

(c) 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, 12, and 13 of title 11; and 

(2) periodic reports by debtors in possession or trustees, as the case may be, in cases under chapter 11 of title 11. 

(b) REPORTS.—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 information about the operational results of the Federal bankruptcy system; 

(1) economy, simplicity, and lack of undue burden on persons with a duty to file reports; and 

(3) appropriate privacy concerns and safeguards. 

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act. 

(d) AMENDMENTS TO SECTION 727 OF TITLE 11, U.S.C.—Section 727(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(i) of this title” after “or serving in the case’’. 

(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 in a usable electronic form in bulk to the public, subject to such appropriate privacy concerns and safeguards as Congress and 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 formats are used to collect data nationwide; and
(B) data for any particular bankruptcy case are aggregated in the same electronic record.

TITLE VII—BANKRUPTCY TAX PROVISIONS

SEC. 701. TREATMENT OF CERTAIN LIENS.

(a) TREATMENT OF CERTAIN LIENS.—Section 724 of title 11, United States Code, is amended—
(1) in subsection (b), in the matter preceding paragraph (1) by inserting “other than to the extent that there is a properly perfected un- avoidable tax lien arising in connection with an ad valorem tax on real or personal property of the estate” after “this title”;
(2) in subsection (b)(2), by inserting “(except to the extent that there is a properly perfected un- avoidable tax lien arising in connection with an ad valorem tax on real or personal property of the estate)” after “such governmental unit”;
(3) by adding at the end the following:
“(f) Notwithstanding the exclusion of ad valo- rem taxes under this section and subject to the requirements of subsection (e), the following may be paid from property of the estate which secures a tax lien, or the proceeds of such property:
“(1) Claims for wages, salaries, and commis- sions that are aggregated in the same electronic record.
“(2) Contributions for an employee benefit plan 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 of the following:
“(i) exhaust the unencumbered assets of the estate; and
“(ii) in a manner consistent with section 506(c), recover from property securing an al- lowed secured claim claim that is unencumbered by an administrative expense tax, or the payment of in- terest to enable a creditor to receive the present value of the allowed secured claim, the rate of interest shall be determined as of the calendar month in which the plan is confirmed.”;
(b) CLERICAL AMENDMENT.—The table of sec- tions for chapter 5 of title 11, United States Code, is amended by inserting after the item re- lating to section 520 the following:
“§ 521. Rate of interest on tax claims.”

SEC. 702. TREATMENT OF FUEL TAX CLAIMS.

Section 501 of title 11, United States Code, is amended by adding at the end the following:
“(ee) A claim arising from the liability of a debtor for fuel use tax assessed consistent with the requirements of section 3719 of title 28, United States Code, is allowed secured claim of a governmental unit under section 506(c), except in any case in which a person would otherwise meet the description of an un- secured claim of a governmental unit under section 507(a)(8), but for the secured status of that claim which is owed to a person as a result of an action filed under chapter 11 of title 11, United States Code, or another similar provision of State or local law.”

SEC. 703. NOTICE OF REQUEST FOR A DETER- MINATION OF TAXES.

Section 505(b) of title 11, United States Code, is amended by striking “paragraph” and inserting “section 506(b)”.

SEC. 704. RATE OF INTEREST ON TAX CLAIMS.

(a) In GENERAL.—Subchapter I of chapter 5 of title 11, United States Code, is amended by adding at the end the following:
“§ 511. Rate of interest on tax claims.
“(a) If any part of this title requires the payment of interest on a tax claim on an ad- ministrative expense tax, or the payment of in- terest to enable a creditor to receive the present value of the allowed secured claim, the rate of interest shall be determined as of the calendar month in which the plan is confirmed.”.

SEC. 705. PRIORITY OF TAX CLAIMS.

Section 507(a)(4) of title 11, United States Code, is amended—
(1) in subparagraph (A), by striking “or” at the end of the following:
“(ii) assessed within 240 days before the date of the filing of the petition, exclusive of—
“(I) any time during which an offer in com- promise with respect to that tax was pending or in effect during that 240-day period, plus 90 days; and
“(II) any time during which a stay of pro- ceedings against collections was in effect in a prior case under this title during that 240-day period; plus 90 days; and
“(2) by adding at the end the following:
“An essentially applicable time period specified in this paragraph shall be suspended for (i) any period during which a governmental unit is pro- hibited 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; plus (ii) any time during which the stay of proceedings was in effect in a prior case under this title during which collection action or proceedings were in effect in a prior case under this title during that 240-day period, plus 90 days.”.

SEC. 706. PRIORITY PROPERTY TAXES INCURRED.

Section 507(b)(1) of title 11, United States Code, is amended by striking “assessed” and inserting “incurred”.

SEC. 707. NO DISCHARGE OF FRAUDULENT TAXES.

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 “section 506(b)”.

SEC. 708. NO DISCHARGE OF FRAUDULENT TAXES (A) 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:
“(c) in a case pending under chapter 7 of title 11, payment of a tax may be deferred until final
distribution is made under section 726 of title 11, if—

“(1) the tax was not incurred by a trustee duly appointed under chapter 7 of title 11, or

“(2) before the due date of the tax, 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) of title 11 that have the same priority in distribution under section 726(b) of title 11 as the priority of that tax.”;

(b) TARDILY FILED PROPERTY TAXES REQUIRED.—Section 503(b)(1)(B) of title 11, United States Code, is amended by inserting “whether secured or unsecured, including property to the extent liability is in rem, in personam, or both,” before “except”.

(c) REQUEST FOR PAYMENT OF ADMINISTRATIVE EXPENSE TAXES ELIMINATED.—Section 503(b)(1) of title 11, United States Code, is amended—

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

(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 on its being an allowed administrative expense;”;

(d) PAYMENT OF TAXES AND FEES AS SECURED CLAIMS.—Section 506 of title 11, United States Code, is amended—

(1) in subsection (b), by inserting “or State statute” after “agreement”;

(2) in subsection (c), by inserting “, including the payment of all ad valorem property taxes with respect to the property” before the period at the end.

SEC. 714. INCOME TAX RETURNS PREPARED BY DEBTORS.

Section 523(a)(1) of title 11, United States Code, as amended by this Act, is amended—

(1) in paragraph (1)(B), by inserting “and filing” in the last sentence;

(2) by inserting “or equivalent report or notice,” after “a return,”;

(3) by striking “filing” in the next to last sentence;

(4) by adding the following:—

“(C) for purposes of this subsection, the term ‘return’ includes any 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, but does not include a return made pursuant to section 6020(b) of the Internal Revenue Code of 1986, or a similar State or local law.”;

SEC. 715. DISCHARGE OF THE ESTATE’S LIABILITY FOR UNPAID TAXES.

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 AND OTHER TAX DOCUMENTS IN 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:—

“(9) the debtor has filed all applicable Federal, State, and local tax returns as required by section 1308.”;

(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:—

“§1308. Filing of prepetition tax returns

“(a) Not later than the day before the date on which the meeting of creditors is first scheduled to be held under section 341(a), the trustee shall file a return for the tax year that is a period of time ending on the date of the filing of the petition.

“(b) Subject to paragraph (2), if the tax returns required by subsection (a) have not been filed by the day on which the meeting of creditors is first scheduled to be held under section 341(a), the trustee may hold open that meeting for a reasonable period of time to enable the debtor or a period not to extend after the applicable nonbankruptcy law because of a pending action to determine the amount or legality of a tax liability, the governmental unit may set off an income tax refund is not permitted under applicable nonbankruptcy law of an income tax refund pending the resolution of a pending action to determine the amount or legality of a tax liability, the governmental unit may set off an income tax refund 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 filing of any applicable filing that return to which the debtor is entitled, and for which request is timely made, in accordance with applicable nonbankruptcy law.

“(B) a period not to extend after the applicable nonbankruptcy law provided that a separate taxable estate or entity is created in a case concerning a debtor under chapter 13 of title 11, United States Code, shall be treated for all purposes as if such an estate or entity were created for purposes of any section of chapter 7 of title 11, United States Code, otherwise than under the circumstances specified in the preceding sentence.

“(c) For purposes of this section, the term ‘return’ includes any 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.

“(1) CONFIRMING 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 1307 the following:—

“§1308. Filing of prepetition tax returns.”;

(c) DISMISSAL OR CONVERSION ON FAILURE TO COMPLY.—Section 1307 of title 11, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and

(2) by inserting after subsection (d) the following:

“(e) Upon the failure of the debtor to file a tax return under section 1308, on request of a party in interest or the United States trustee and after notice and a hearing, the court shall dismiss a case or convert a case under this chapter to a case under chapter 7 of this title, whichever is in the best interest of the creditors and the estate.”;

(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:—

“(5) and for which request is timely made, in accordance with the applicable nonbankruptcy law of an income tax refund to which the debtor is entitled, and for which request is timely made, in accordance with applicable nonbankruptcy law.”;

SEC. 717. STANDARDS FOR TAX DISCLOSURE.

Section 112(a)(1) of title 11, United States Code, is amended—

(1) by inserting “including a discussion of the potential material Federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor typical of holders of claims or interests in the case,” after “records”;

(2) by striking “a hypothetical reasonable investor typical of holders of claims or interests in the case,” and inserting “such a hypothetical investor”; and

(3) by inserting “and filing” after “filing”;

SEC. 718. SETOFF OF TAX REFUNDS.

Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (25), as added by this Act, the following:

“(26) in subsection (a), the setoff under applicable nonbankruptcy law of an income tax refund by a governmental unit, with respect to a taxable period that ended after 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 action to determine the amount or legality of a tax liability, the governmental unit may set off the refund provided by 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 506(a).”;

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 estate or entity is created in a case under this title, and the income, gain, loss, deductions, and credits of such estate shall be taxed to or claimed by the estate, a separate taxable estate or entity is also created for purposes of any 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 created under this title, and the income, gain, loss, deductions, and credits of such estate shall be taxed to or claimed by the estate created under this title.”;

(b) The provisions of section 505 of title 11, United States Code, shall be treated for all purposes as if such an estate were created for purposes of any section of chapter 7 of title 11, United States Code, otherwise than under the circumstances specified in the preceding sentence.
The trustee shall make tax returns of income received under any such State or local law.

(2) Whenever the Internal Revenue Code of 1986 provides that no separate taxable estate shall be created by reason of any event or occurrence during a taxable period under this title, the Internal Revenue Code of 1986, or any combination of paragraphs (2), (4), and (5) of section 523(a), shall be applied to reduce the tax attributes of the debtor or the estate, a similar reduction shall be made under such Code. The estate shall be liable for any tax imposed on such corporation or partnership, but not for any tax imposed on partners or members.

(3) With respect to a partnership or any entity treated as a partnership under a State or local law imposing a tax on or measured by income that is a debtor in a case under this title, any gain or loss resulting from a distribution of property from such partnership, or any distributive share of any income, gain, loss, deduction, or credit of a partner or member that is distributed, considered distributed, from such partnership, the time of the commencement of the case, is gain, net loss, or credit, as the case may be, of the partner or member, and if such partner or member is a debtor in a case under this title, subject to tax in accordance with paragraphs (a) or (b).

(4) For purposes of any State or local law imposing a tax on or measured by income, the taxable period of a debtor in a case under this title shall terminate if and to the extent that the taxable period of such debtor terminates under the Internal Revenue Code of 1986.

(e) The estate in any case described in subsections (a) and (b), or any similar case described in subsection (c), shall be liable for any tax imposed on such corporation or partnership, or credit of a partner or member that is distributed, considered distributed, from such partnership, the time of the commencement of the case, is gain, net loss, or credit, as the case may be, of the partner or member, and if such partner or member is a debtor in a case under this title, subject to tax in accordance with paragraphs (a) or (b).

(f) For purposes of any State or local law imposing a tax on or measured by income, a transfer of property from the debtor to the estate or from the estate to the debtor shall not be treated as a disposition for purposes of any provision assigning tax consequences to a disposition, except that such transfer is treated as a disposition under the Internal Revenue Code of 1986.

(g) Whenever a tax is imposed pursuant to a State or local law on or measured by income received by a partner or member during the partners tax period, the same or a similar tax attribute may be imputed to reduce the tax attributes of the debtor or the estate.

(h) For Federal tax purposes, the provisions of this section are subject to the Internal Revenue Code of 1986 and any other applicable Federal nonbankruptcy law.

(i) CONFORMING AMENDMENTS.—

(1) Section 728 of title 11, United States Code, is amended by—

(A) in subsection (a) by striking subsection (a) and inserting in lieu thereof—

(i) To the extent that any State or local law imposing a tax on or measured by income provides for the carryover of any tax attribute from one taxable period to a subsequent taxable period, or to a similar taxable period, such tax attribute in any case in which such case is subject to tax under subsection (a).

(2) The estate may carry back any loss or tax attribute to a taxable period of the debtor that ended before the order for relief under this title to the extent that—

(a) applicable State or local tax law provides for a carryback in the case of the debtor; and

(b) the tax attribute may be carried back by the estate to such a taxable period under the Internal Revenue Code of 1986.

(c) (i) For purposes of any State or local law imposing a tax on or measured by income, income is not realized by the estate, the debtor, or a successor to the debtor by reason of discharge of indebtedness under this title, except to the extent, if any, that such income is subject to tax under the Internal Revenue Code of 1986.

(2) Whenever the Internal Revenue Code of 1986 provides that the amounts excluded from gross income in respect of the discharge of indebtedness in a case under this title shall be applied to reduce the tax attributes of the debtor or the estate, a similar reduction shall be made under any State or local law imposing a tax on or measured by income to the extent such State or local law recognizes such attributes. Such State or local law may also provide for the reduction of other attributes to the extent that the full amount of income from the discharge of indebtedness has not been applied.

(k)(1) Except as provided in this section and section 505, the time and manner of filing tax returns and the amounts of income, gain, loss, deduction, or credit, as the case may be, of the partner or member, and if such partner or member is a debtor in a case under this title, subject to tax in accordance with paragraphs (a) or (b).

(2) For Federal tax purposes, the provisions of this section are subject to the Internal Revenue Code of 1986 and any other applicable Federal nonbankruptcy law.

SEC. 720. DISMISSAL FOR FAILURE TO TIMELY FILE TAX RETURNS.

Section 521 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

(1) Notwithstanding any other provision of this title, if the debtor fails to file a tax return that became due before the commencement of the case or to properly obtain an extension of the due date for filing such return, the tax authority may request that the court enter an order converting or dismissing the case.

(2) If the debtor does not file the required return or obtain the extension referred to in paragraph (1) within 90 days after a request is filed by the taxing authority under that paragraph, the court shall convert or dismiss the case, whichever is in the best interests of creditors and the estate.

TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES

CHAPTER 15—ANCILLARY AND OTHER CROSS-BORDER CASES

SEC. 801. AMENDMENT TO ADD CHAPTER 15 TO TITLE 11, UNITED STATES CODE.

(a) In General.—Title 11, United States Code, is amended by inserting after chapter 13 the following:

"CHAPTER 15—ANCILLARY AND OTHER CROSS-BORDER CASES

Sec. 1501. Purpose and scope of chapter.

SUBCHAPTER I—GENERAL PROVISIONS

1502. Definitions.


1504. Commencement of ancillary case.

1505. Authorization to act in a foreign country.

1506. Public policy exception.

1507. Additional assistance.

1508. Interpretation.

SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

1509. Right of direct access.

1510. Limited jurisdiction.

1511. Commencement of case under section 301 or 303.

1512. Participation of a foreign representative in a case under this title.

1513. Access of foreign creditors to a case under this title.

1514. Notification to foreign creditors concerning a case under this title.

SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF


1516. Presumptions concerning recognition.

1517. Order granting recognition.

1518. Subsequent information.

1519. Relief that may be granted upon filing petition for recognition.

1520. Effects of recognition of a foreign main proceeding.

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§ 1501. Purpose and scope of chapter.

(a) The purpose of this chapter is to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency with the objectives of—

(1) cooperation between—

(A) United States courts, United States trustees, trustees, examiners, debtors, and debtors in possession; and

(B) the courts and other competent authorities of foreign countries involved in cross-border insolvency cases;

(2) greater legal certainty for trade and investment;

(3) fair and efficient administration of cross-border insolvency that protects the interests of all creditors, and other interested entities, including the debtor;

(4) protection and maximization of the value of the debtor's assets; and

(5) facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

(b) This chapter applies where—

(1) assistance is sought in the United States in a case under a foreign law; and

(2) the proceeding is commenced in a foreign country; or

(3) a similar proceeding is commenced in a foreign country relating to the assets of the debtor; and

(4) the debtor is in insolvency proceedings in the United States; and

(5) any of the conditions of paragraphs (2) through (4) is met.
§1505. Public policy exception

“Nothing in this chapter prevents the court from refusing to take an action governed by this chapter if the action would be manifestly contrary to the public policy of the United States.

§1507. Additional assistance

(a) Subject to the specific limitations 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 that in determining whether to provide additional assistance under this title or under other laws of the United States, the court shall consider whether such additional assistance, consistent with the principles of comity, will reasonably assure—

(1) just treatment of all holders of claims against or interests in the debtor’s property;

(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;

(3) prevention of preferential or fraudulent dispositions of property of the debtor;

(4) distribution of proceeds of the debtor’s property substantially in accordance with the order prescribed by this title; and

(5) if appropriate, the provision of an opportunity for a foreign representative to be an individual that such foreign proceeding concerns.

§1508. Interpretation

“In interpreting this chapter, the court shall consider its international origin, and the need for uniformity and consistency in this chapter—

(1) public courts are judicial or other authority competent to control or supervise a foreign proceeding;

(2) foreign main proceeding” means a foreign proceeding in which the foreign representative has the center of its main interests;

(3) foreign nonmain proceeding” means a foreign proceeding, other than a foreign main proceeding, taking place in a country where the debtor has an establishment;

(4) ‘trustee’ includes a trustee, a debtor in possession in a case under any chapter of this title, or a debtor under chapter 9 of this title;

(5) ‘obligation’ means the order granting recognition of a foreign main proceeding or foreign nonmain proceeding under this chapter;

(6) ‘within the territorial jurisdiction of the United States’, when used with reference to property of a debtor, refers to tangible property located in the United States or intangible property deemed to be located within the United States, including any property subject to attachment or garnishment that may properly be seized or garnished by an action in a Federal or State court in the United States.

§1509. Right of direct access

(a) A foreign representative may commence a case under section 1504 by filing directly with the court a petition for recognition of a foreign proceeding under section 1515.

(b) If the court grants recognition under section 1515, and subject to any limitations that the court may impose consistent with the policy of this chapter—

(1) the foreign representative has the capacity to sue and be sued in a court in the United States;

(2) the foreign representative may apply directly to a court in the United States for appropriate relief in that court;

(3) a court in the United States shall grant comity or cooperation to the foreign representative.

(c) A request for comity or cooperation by a foreign representative in a court in the United States other than the court which granted recognition shall be accompanied by a certified copy of an order granting recognition under section 1517.

(d) If the court denies recognition under this chapter, the court may issue any appropriate order directing the foreign representative from obtaining comity or cooperation from courts in the United States.

(e) Whether or not the court grants recognition, and subject to sections 306 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 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 that court to the jurisdiction of any court in the United States for any other purpose.

§1511. Commencement of case under section 301 or 303

(a) Upon recognition, a foreign representative may commence—

(1) an involuntary case under section 303; or

(2) a voluntary case under section 301 or 302, if the foreign proceeding is a foreign main proceeding.

(b) The petition commencing a case under subsection (a) must be accompanied by a certified copy of an order granting recognition. The court where the petition for recognition has been filed must be advised of the foreign representative’s intent to commence a case under subsection (a) prior to such commencement.

§1512. Participation of a foreign representative in a case under this title

“On recognition of a foreign proceeding, the foreign representative in the recognized proceeding is entitled to participate as a party in interest in a case regarding the debtor under this title.

§1513. Access of foreign creditors to a case under this title

“Foreign creditors have the same rights regarding the commencement of, and participation in, a case under this title as their creditors under other laws of the United States.

(2) A petition for recognition shall be accompanied by a certified copy of an order granting recognition. The court, if the petition for recognition has been filed by a foreign representative, must be advised of the foreign representative’s intent to commence a case under subsection (a) prior to such commencement.

§1514. Notification to foreign creditors concerning a case under this title

(a) Whenever in a case under this title notice is to be given to creditors generally or to any class or category of creditors, such notice shall also be given to the known creditors generally, or to any creditors in the category, that do not have addresses in the United States.

(b) The court may order that appropriate steps be taken to ensure giving notice to creditors generally or to any class or category of creditors, that, under the circumstances, some other form of notification would be more appropriate. No letter or other formality is required.

(c) When a notification of commencement of a case is to be given to foreign creditors, the notification shall be—

(1) indicate the time period for filing proofs of claim and specify the place for their filing;

(2) indicate whether secured creditors need to file their proofs of claim; and

(3) contain any other information required to be included in such a notification to creditors under this title and the orders of the court.

(d) Any rule of procedure or order of the court as to notice or the filing of a claim shall provide such additional time to creditors with foreign addresses as is reasonable under the circumstances.

SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

§1515. Application for recognition

(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—
§1516. Presumptions concerning recognition

(a) If the decision or certificate referred to in section 1515(b) indicates that the foreign proceeding is a foreign main 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 may subject relief granted under section 1519 or 1521, or may modify or terminate relief granted under section 1519 or 1521, or at its own motion, modify or terminate such relief.

§1520. Effects of recognition of a foreign main proceeding

(a) Upon recognition of a foreign proceeding that is a foreign main proceeding (as defined in section 362(a)) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(i) shall not be stayed by any order of the court in any proceeding under this chapter, to conditions it considers appropriate, including—

(1) staying execution against the debtor's assets located in the United States to the foreign representative or an entity affected by recognition of the debtor's business under section 1520(a) of this title, to conditions it considers appropriate, including the giving of security or the filing of a bond.

(2) Suspending the right to commence an individual action or proceeding in a foreign country to the extent necessary to preserve a claim against the debtor.

(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 documents 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 located in the United States to the foreign representative or another person, including an examiner, authorized by the court; and

(6) extending relief granted under section 1520(b).

(b) Upon recognition of a foreign proceeding, whether main or nonmain, the court may, at the request of the foreign representative, entrust the control of any asset of the debtor located in the United States to the foreign representative or another person, including an examiner, authorized by the court, that the court is satisfied that the interests of creditors in any proceeding under this chapter are sufficiently protected.

§1522. Protection of creditors and other interested persons

(a) The court may grant relief under section 1519 or 1521, or may modify or terminate relief under subsection (c), only if the interests of the creditors and other interested persons, including the debtor, are sufficiently protected.

(b) The court may subject relief granted under section 1519 or 1521, or at its own motion, modify or terminate such relief.

§1523. Actions to avoid acts detrimental to creditors

(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a case concerning the debtor to challenge any act of the bankruptcy court in the chapter of this title to initiate actions under sections 522, 544, 547, 548, 550, and 724(a).

(b) When the foreign proceeding is a foreign nonmain proceeding, the foreign representative may be satisfied that an act under subsection (a) relates to a foreign country to the extent this right has not been suspended under section 1520(a);
proceedings in a State or Federal court in the United States in which the debtor is a party.

**SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES**

§1525. Cooperation and direct communication between the court and foreign courts or foreign representatives

(a) Consistent with section 1501, the court shall cooperate to the maximum extent possible with foreign courts or foreign representatives, either directly or through the trustee.

(b) The court is entitled to communicate directly with, or to request information or assistance directly from, foreign courts or foreign representatives, subject to the rights of parties in interest to notice and participation.

§1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives

(a) Consistent with section 1501, the trustee or other person, including an examiner, authorized by the court, shall, subject to the supervision of the court, cooperate to the maximum extent possible with foreign courts or foreign representatives.

(b) The trustee or other person, including an examiner, in the court is entitled, subject to the supervision of the court, to communicate directly with foreign courts or foreign representatives.

§1527. Forms of cooperation

"Cooperation referred to in sections 1525 and 1526 may be implemented by any appropriate means, including—"

(1) appointment of a person or body, including an examiner, to act at the direction of the court;

(2) communication of information by any means considered appropriate by the court;

(3) the administration and supervision of the debtor’s assets and affairs;

(4) approval or implementation of agreements concerning the coordination of proceedings; and

(5) coordination of concurrent proceedings regarding the same debtor.

**SUBCHAPTER V—CONCURRENT PROCEEDINGS**

§1528. Commencement of a case under this title after recognition of a foreign main proceeding

"After recognition of a foreign main proceeding, a case under another chapter of this title may be commenced only if the debtor has assets in the United States. The effects of such case shall be restricted to the assets of the debtor or that are within the territorial jurisdiction of the United States. The extent to which the court shall be entitled to implement cooperation and coordination under sections 1525, 1526, and 1527, to other assets of the debtor that are within the jurisdiction of the court under sections 1528 and 1529, the court may grant any of the relief authorized under section 305.

§1530. Coordination of more than 1 foreign proceeding

"In matters referred to in section 1501, with respect to more than 1 foreign proceeding regarding the debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

(1) Any relief granted under section 1519 or 1521 shall be modified or terminated if inconsistent with the relief granted in the case in the United States.

(2) In granting, modifying or terminating 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 foreign country, including an interim proceeding, in which the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;

(3) "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 to act as a representative of the foreign proceeding;"

§1531. Presumption of insolvency based on recognition of a foreign main proceeding

"In the absence of evidence to the contrary, recognition of a foreign main proceeding is, for the purpose of commencing a proceeding under section 303, proof that the debtor is generally not paying its debts as they become due.

§1532. Rule of payment in concurrent proceedings

"Without prejudice to secured claims or rights in rem, a creditor who has received payment with respect to its claim in a foreign proceeding pursuant to a law relating to insolvency may not receive a payment for the same claim in a case under any other chapter of this title regarding the debtor, so long as the payment to other creditors of the same class is proportionately less than the payment the creditor has already received.

§1534. MODIFICATION OF FOREIGN LAW

"The provisions of title 11, United States Code, are amended to read as follows:

(b) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraphs (23) and (24) and inserting the following:

(23) ‘foreign proceeding’ means a collective judicial or administrative proceeding in a foreign country, including an interim proceeding, under a law relating to insolvency or adjustment of debt in which proceedings the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;

(3) ‘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 to act as a representative of the foreign proceeding;"

§1540. 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; or

(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 reorganization or liquidation sought by the foreign representative.;"

**SUBCHAPTER I—REORGANIZATION AND ADJUSTMENT OF DEBTORS**

SEC. 101. TITLES 11 AND 28, UNITED STATES CODE

(a) APPLICATION OF CHAPTERS.—Section 103 of title 11, United States Code, is amended—

(1) in subsection (a), by inserting before the period the following: ‘‘; and’’

(2) by adding at the end the following:

(‘‘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".

§1002. OTHER AMENDMENTS TO TITLES 11 AND 28, UNITED STATES CODE

(a) APPLICABLE LAW.—Section 103 of title 11, United States Code, is amended—

(1) in subsection (a), by inserting before the period the following: ‘‘; and’’

(2) by adding at the end the following:

(‘‘b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 13 of title 11, United States Code, is amended by striking ‘‘, 13, or ‘‘.

§1004. VENUE OF CASES ANCILLARY TO FOREIGN PROCEEDINGS

"Section 101 of title 11, United States Code, is amended to read as follows:

‘‘1140. 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; or

(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 reorganization or liquidation sought by the foreign representative.’’;"

§1006. OTHER AMENDMENTS TO TITLES 11 AND 28, UNITED STATES CODE

(a) APPLICABLE LAW.—Section 103 of title 11, United States Code, is amended—

(1) in subsection (a), by inserting before the period the following: ‘‘; and’’

(2) by adding at the end the following:

(‘‘b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 3 of title 11, United States Code, is amended by striking the item relating to section 305(a) of title 11, United States Code, is repealed.

(C) Section 306 of title 11, United States Code, is amended by striking ‘‘, 304, ‘‘

(d) OTHER SEC. 101.—(1) Section 109(b)(3) of title 11, United States Code, is amended as follows:

(2) 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 reorganization or liquidation sought by the foreign representative.

(d) OTHER SECTIONS OF TITLE 11.—

(1) Section 109(b)(3) of title 11, United States Code, is amended by adding before the period the following: ‘‘; and’’

(2) Section 303(k) of title 11, United States Code, is amended to read as follows:

(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 reorganization or liquidation sought by the foreign representative.

(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. 1002. OTHER AMENDMENTS TO TITLES 11 AND 28, UNITED STATES CODE

(a) APPLICABLE LAW.—Section 103 of title 11, United States Code, is amended—

(1) in subsection (a), by inserting before the period the following: ‘‘; and’’

(2) by adding at the end the following:

(‘‘b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 3 of title 11, United States Code, is amended by striking the item relating to section 305(a) of title 11, United States Code, is repealed.

(C) Section 306 of title 11, United States Code, is amended by striking ‘‘, 304, ‘‘ each place it appears.

(d) OTHER SEC. 101.—(1) Section 109(b)(3) of title 11, United States Code, is amended as follows:

(2) 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 reorganization or liquidation sought by the foreign representative.”
(Section 506 of title 11, United States Code, is amended—

(A) by striking subsection (a); and

(B) in subsection (b), by striking "(b)."

TITLE IX—FINANCIAL CONTRACT PROVISIONS

SEC. 901. TREATMENT OF CERTAIN AGREEMENTS BY CONSERVATORS OR RECEIVERS OF INSURED DEPOSITORY INSTITUTIONS.

(a) Definition of Qualified Financial Contract.—Section 11(e)(6)(D)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(6)(D)(ii)) is amended to read as follows:

"(ii) SECURITIES CONTRACT.—The term 'securities contract' 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 any option on any of the foregoing, together with all supplements to any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including a reverse repurchase agreement entered into with respect to any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

"(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

"(III) means any option entered into on a national securities exchange relating to foreign currencies;

"(IV) means the guarantee by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, 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 any option on any of the foregoing, together with all supplements to any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

"(V) means any margin loan;

"(VI) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

"(VII) means any option to enter into any agreement or transaction referred to in this clause;

"(VIII) means any option to enter into any agreement or transaction referred to in this clause;

"(IX) means any option entered into on a national securities exchange relating to foreign currencies; or

"(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 and includes any agreement or transaction referred to in clauses (I), (II), (III), (IV), (V), (VI), (VII), or (VIII) or

"(xi) 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 and includes any agreement or transaction referred to in clauses (I), (II), (III), (IV), (V), (VI), (VII), or (VIII) or

"(xii) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, a credit default swap, a swap of a swap, a credit default swap of a swap, a credit default swap of a credit default swap, a currency swap, or any other similar agreement; and

"(xiii) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, a credit default swap, a swap of a swap, a credit default swap of a swap, a credit default swap of a credit default swap, a currency swap, or any other similar agreement.

(b) Definition of Forward Contract.—Section 11(e)(8)(D)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(ii)) is amended to read as follows:

"(ii) 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 index, or option on any of the foregoing, or any agreement or transaction similar to 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), (III), (IV), (V), (VI), (VII), or (VIII) or

"(II) any agreement or transaction referred to in any such subclause.

(f) Definition of Swap Agreement.—Section 11(e)(6)(D)(vi) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(6)(D)(vi)) is amended to read as follows:

"(vi) SWAP AGREEMENT.—The term 'swap agreement' means—

"(I) any agreement, including related terminations, which provides for the exchange of one or more certificates of deposit, mortgage-related securities, foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible banks’ acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferee thereof certificates of deposit, eligible banks’ acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

"(II) 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 central government of a member of the Organization for Economic Co-operation and Development, or any other similar entity by regulation or order adopted by the appropriate Federal banking authority.”.
future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity swap, option, future or forward agreement; or a weather swap, weather derivative, or weather option;

(II) any agreement or transaction that is similar to, or equivalent to, or transaction referred to in this clause and that is of a type that has been, or is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference in such agreement) and that is a swap, forward, future, or option on one or more rates, currencies, commodities, equity securities, or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

(III) any combination of agreements or transactions referred to in this clause;

(IV) any option to enter into any agreement or transaction referred to in this clause;

(V) any agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement only to the extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

(VI) any agreement or transaction referred to in subclause (I), (II), (III), (IV), or (V) including any guarantee or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), (V) or (VI) any agreement or transaction in connection with any agreement or transaction 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 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 Commodities Exchange Act, the Gramm-Leach-Bliley Act, and the Federal Reserve Act of 1971 :

(7) DEFINITION OF TRANSFER.—Section 11(e)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(9)) is amended to read as follows:

"(a) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended by inserting the following:

"(iii) 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

"(iv) all property securing or any other credit enhancement for any person against such depository institution referred to in clause (i) or any claim described in subclause (II) or (III) under such contract; or

"(v) any contract or transfer of the qualified financial contracts, claims, or any other credit enhancement referred to in clause (i) with respect to such person or any affiliate of such person.

"(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, BRANCH OR AGENT OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transference as a covered transaction or to recognize such contract as a qualified financial contract for purposes of this title or section 5242 of the Revised Statutes of 1909 or any subsequent reenactment thereof.

"(C) TRANSFER OF CONTRACTS SUBJECT TO THE REGULATIONS OF A CLEARING ORGANIZATION.—In the event that a depository institution or conservator or receiver transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(ii) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transference as a covered transaction or to recognize such contract as a qualified financial contract for purposes of this title or section 5242 of the Revised Statutes of 1909 or any subsequent reenactment thereof.

"(D) DEFINITIONS—For purposes of this paragraph, the term 'qualified financial contracts' means a debt swap, option, future or forward agreement, a total return, credit spread or credit derivative, the term 'clearing organization', has the same meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991:

"(E) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTY—In the event that any transfer of qualified financial contracts, claims, property or other credit enhancement related to such contract does not comply in the opinion of the depository institution or conservator or receiver, with the requirements set forth in this subsection, the depository institution or conservator or receiver shall notify the qualified financial contract counterparty to such contract, by a method determined by the depository institution or conservator or receiver, of any inability to comply with the requirements set forth in this subsection.

"(F) TRANSFERS TO DEPOSITORY INSTITUTIONS OF QUALIFIED FINANCIAL CONTRACTS—In the event that any transfer of qualified financial contracts, claims, property or other credit enhancement related to such contract does not comply in the opinion of the depository institution or conservator or receiver, with the requirements set forth in this subsection, the depository institution or conservator or receiver shall notify the qualified financial contract counterparty to such contract, by a method determined by the depository institution or conservator or receiver, of any inability to comply with the requirements set forth in this subsection.

"(G) TRANSFERS TO DEPOSITORY INSTITUTIONS OF QUALIFIED FINANCIAL CONTRACTS—In the event that any transfer of qualified financial contracts, claims, property or other credit enhancement related to such contract does not comply in the opinion of the depository institution or conservator or receiver, with the requirements set forth in this subsection, the depository institution or conservator or receiver shall notify the qualified financial contract counterparty to such contract, by a method determined by the depository institution or conservator or receiver, of any inability to comply with the requirements set forth in this subsection.

"(H) TRANSFERS TO DEPOSITORY INSTITUTIONS OF QUALIFIED FINANCIAL CONTRACTS—In the event that any transfer of qualified financial contracts, claims, property or other credit enhancement related to such contract does not comply in the opinion of the depository institution or conservator or receiver, with the requirements set forth in this subsection, the depository institution or conservator or receiver shall notify the qualified financial contract counterparty to such contract, by a method determined by the depository institution or conservator or receiver, of any inability to comply with the requirements set forth in this subsection.

"(I) TRANSFERS TO DEPOSITORY INSTITUTIONS OF QUALIFIED FINANCIAL CONTRACTS—In the event that any transfer of qualified financial contracts, claims, property or other credit enhancement related to such contract does not comply in the opinion of the depository institution or conservator or receiver, with the requirements set forth in this subsection, the depository institution or conservator or receiver shall notify the qualified financial contract counterparty to such contract, by a method determined by the depository institution or conservator or receiver, of any inability to comply with the requirements set forth in this subsection.

"(J) TRANSFERS TO DEPOSITORY INSTITUTIONS OF QUALIFIED FINANCIAL CONTRACTS—In the event that any transfer of qualified financial contracts, claims, property or other credit enhancement related to such contract does not comply in the opinion of the depository institution or conservator or receiver, with the requirements set forth in this subsection, the depository institution or conservator or receiver shall notify the qualified financial contract counterparty to such contract, by a method determined by the depository institution or conservator or receiver, of any inability to comply with the requirements set forth in this subsection.

"(K) TRANSFERS TO DEPOSITORY INSTITUTIONS OF QUALIFIED FINANCIAL CONTRACTS—In the event that any transfer of qualified financial contracts, claims, property or other credit enhancement related to such contract does not comply in the opinion of the depository institution or conservator or receiver, with the requirements set forth in this subsection, the depository institution or conservator or receiver shall notify the qualified financial contract counterparty to such contract, by a method determined by the depository institution or conservator or receiver, of any inability to comply with the requirements set forth in this subsection.

"(L) TRANSFERS TO DEPOSITORY INSTITUTIONS OF QUALIFIED FINANCIAL CONTRACTS—In the event that any transfer of qualified financial contracts, claims, property or other credit enhancement related to such contract does not comply in the opinion of the depository institution or conservator or receiver, with the requirements set forth in this subsection, the depository institution or conservator or receiver shall notify the qualified financial contract counterparty to such contract, by a method determined by the depository institution or conservator or receiver, of any inability to comply with the requirements set forth in this subsection.

"(M) TRANSFERS TO DEPOSITORY INSTITUTIONS OF QUALIFIED FINANCIAL CONTRACTS—In the event that any transfer of qualified financial contracts, claims, property or other credit enhancement related to such contract does not comply in the opinion of the depository institution or conservator or receiver, with the requirements set forth in this subsection, the depository institution or conservator or receiver shall notify the qualified financial contract counterparty to such contract, by a method determined by the depository institution or conservator or receiver, of any inability to comply with the requirements set forth in this subsection.

"(N) TRANSFERS TO DEPOSITORY INSTITUTIONS OF QUALIFIED FINANCIAL CONTRACTS—In the event that any transfer of qualified financial contracts, claims, property or other credit enhancement related to such contract does not comply in the opinion of the depository institution or conservator or receiver, with the requirements set forth in this subsection, the depository institution or conservator or receiver shall notify the qualified financial contract counterparty to such contract, by a method determined by the depository institution or conservator or receiver, of any inability to comply with the requirements set forth in this subsection.

"(O) TRANSFERS TO DEPOSITORY INSTITUTIONS OF QUALIFIED FINANCIAL CONTRACTS—In the event that any transfer of qualified financial contracts, claims, property or other credit enhancement related to such contract does not comply in the opinion of the depository institution or conservator or receiver, with the requirements set forth in this subsection, the depository institution or conservator or receiver shall notify the qualified financial contract counterparty to such contract, by a method determined by the depository institution or conservator or receiver, of any inability to comply with the requirements set forth in this subsection.
“(ii) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).”

“(iii) CONSERVATORSHIP.—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)(E) or (8)(F) if the conservator or receiver with respect to any depository institution is a party, the conservator or receiver with respect to any financial institution for which a conservator is appointed, or the subject of a bankruptcy or insolvency proceeding for purposes of this subsection (e) only, and shall not be deemed to have notified a person who is a party to a qualified financial contract with such depository institution if the Corporation has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

“(C) TREATMENT OF BRIDGE BANKS.—The following institutions shall not be considered to be a financial institution for which a conservator, receiver, or other custodian has been appointed or which is otherwise subject to a bankruptcy or insolvency proceeding for purposes of this subsection (e) only,

“(i) a bridge bank;

“(ii) a depository institution organized by the Corporation, for which a conservator is appointed;

“(iii) any person or any affiliate of such person; and

“(iv) the depository institution in default; or

“(v) any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) or (8)(F).”

“SEC. 904. AMENDMENTS RELATING TO SECURITIES LAW.—(1) by striking subsection (a) and inserting the following:

“(a) IN GENERAL.—Notwithstanding any other provision of 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 of a member of a clearing organization shall be enforceable in accordance with their terms (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 section 5(b)(2) of the Securities Investor Protection Act of 1970).”

“SEC. 905. CLARIFYING AMENDMENT RELATING TO MASTER AGREEMENTS.—Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(viii)) is amended to read as follows:

“(ii) the depository institution referred to in paragraph (A) with respect to any such depository institution subsidiarity agreements and the covered contractual payment entitlements between any 2 financial institutions shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code),”

“(ii) by adding at the end the following new subsection:

“(I) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement relating to a qualified financial contract or agreement with respect to one or more netting contracts between any 2 members of a clearing organization shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code),” and

“(ii) by adding at the end the following new subsection:

“(B) ENFORCEABILITY OF THE CLEARING ORGANIZATION NETTING CONTRACTS.—Section 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4404) is amended—

“(B)(ii) by adding at the end the following new subparagraph:

“(ii) the depository institution in default; or

“(ii) by redesigning paragraphs (2)(B) through (2)(D) as subparagraphs (C) through (E), respectively; and

“(B) in subparagraph (A), by inserting after subparagraph (A) the following new subparagraph:

“(A) a bridge bank;

“(B) any person or any affiliate of such person; and

“(C) any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) or (8)(F).”


“(a) IN GENERAL.—Notwithstanding any other provision of law, paragraphs (8), (9), and (11) of section 1(e) of the Federal Deposit Insurance Act shall apply to an uninsured national bank or uninsured Federal branch or agency, a corporation chartered under section 5(a) of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization, and shall not be stayed, avoided, or otherwise limited by any other provision of law, 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).”

“(a) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement or agreement or agreements, together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract with respect to one or more netting contracts between any 2 financial institutions shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code),”; and

“(b) by inserting at the end the following:

“(B) by redesigning paragraphs (2)(B) through (2)(D) as subparagraphs (C) through (E), respectively; and

“(B) in paragraph (6)—

“(A) by redesigning subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

“(B) in paragraph (11) 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).”

“SEC. 906. CLARIFYING AMENDMENT TO MASTER AGREEMENTS.—Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(viii)) is amended to read as follows:

“(ii) a depository institution organized by the Corporation, for which a conservator is appointed;”
refers to the receiver appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank; and

(3) any reference to an ‘insured depository institution’ or ‘depository institution’ shall refer to an uninsured national bank, an uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates as, or operates as a part of, a multilateral clearing organization pursuant to section 409 of this Act.

(b) LIABILITY.—The liability of a receiver or conservator appointed under section 1716 of the Federal Reserve Act, or an uninsured State member bank which operates as, or operates as a part of, 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 the Comptroller of the Currency and the Board of Governors of the Federal Reserve System in the case of 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 the Act.

SEC. 902. BANKRUPTCY CODE AMENDMENTS.


(1) in section 101—

(A) in paragraph (25)—

(i) striking ‘means a contract’ and inserting ‘means—’; and

(ii) by adding at the end the following:

‘‘(A) a contract;’’

(2) in section 550—

(iii) any combination thereof or option thereon;’’ and inserting ‘‘, or any other similar agreement;’’; and

(iv) by adding at the end the following:

‘‘(A) any combination of agreements or transactions referred to in subparagraphs (A) and (C);”

(C) any option to enter into an agreement or transaction referred to in subparagraph (A) or (B);”

(D) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), or (C), together with all supplements to any such master agreement, without regard to whether such master agreement provides for a forward agreement or a transaction under such master agreement that is referred to in subparagraph (A), (B), or (C); or

(E) any security agreement or arrangement, or any other similar agreement or transaction referred to in subparagraph (A), (B), or (D) including any guarantor or reimbursement obligation by or to a forward contract merchant or financial participant in connection with any agreement or transaction referred to in any such subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562;”;

(B) in paragraph (46), by striking “on any day during the period beginning 90 days before the date of the bankruptcy petition” and inserting “on the date of the petition”;

(C) by amending paragraph (47) to read as follows:

‘‘(47) ‘repurchase agreement’ (which definition also applies to a reverse repurchase agreement)—

(‘‘A) means—

(i) an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage related securities (as defined in section 3 of the Securities Exchange Act of 1934), mortgage loans, eligible bankers’ acceptances, qualified foreign government securities (defined as a security that is a direct obligation of, or that is fully guarantied by, the central government of a member of the Organization for Economic Cooperation and Development), or securities that are direct obligations of, or that are fully guarantied by, the United States or any agency of the United States, against the transfer of funds, funds, with respect to each agreement or transaction referred to in this paragraph and that—

(A) affects a market or market segment for transfers of funds;”;

(B) is a forward, swap, future, or option on any one or more rates, currencies, commodities, equities, securities, or other debt instruments, debt to or by a swap or other similar agreement or transaction referred to in clause (i), (ii), (iii), or (iv); or

(C) in paragraph (47), by inserting ‘‘, or exchange activity;’’ after ‘‘1934’’; and

(D) by amending paragraph (53B) to read as follows:

‘‘(53B) ‘swap agreement’—

(‘‘A) means—

(‘‘B) 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 swap, option, future, or forward agreement or a combination thereof or any similar agreement;”;

(III) a currency swap, option, future, or forward agreement;

(IV) an equity index or equity swap, option, future, or forward agreement;”;

(II) a forward swap, weather derivative, or other similar agreement or transaction referred to in this subparagraph;”;

(III) any agreement or transaction that is similar to any other agreement or transaction referred to in this paragraph and that—

(A) affects a market or market segment for transfers of funds;”;

(B) is a forward, swap, future, or option on any one or more rates, currencies, commodities, equities, securities, or other debt instruments, with respect to each agreement or transaction referred to in this paragraph and that—

(i) affects a market or market segment for transfers of funds;”;

(ii) is a repurchase agreement or a reverse repurchase agreement;”;

(iii) any combination of agreements or transactions referred to in clauses (i) and (ii);”;

(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 or any agreement or transaction referred to in such master agreement is 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 under 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 agreement or transaction referred to in any such clause, but not to exceed the damages 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 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 741(f), by striking paragraph (7) and inserting the following:
"(7) defined as contracts—"
"(A) means—"
"(i) a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan or a mortgage loan interest, or index of securities, certificates of deposit, mortgage loans or interests therein (including an interest therein or based on the value there-
of), or a swap agreement or agreement referred to in this subparagraph, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;
(ii) any agreement 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 a security, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, or mortgage loans or interests therein (including any interest therein or based on the value there-
of), or a swap agreement or agreement referred to in this subparagraph, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;
(iii) any agreement referred to in this subparagraph;
(iv) any other agreement or transaction that is similar to an agreement or transaction referred to in this subparagraph;
(v) any option to enter into any agreement or transactions referred to in this subparagraph;
(vi) any combination of the agreements or transactions referred to in this subparagraph;
(vii) any option to enter into any agreement or transactions referred to in this subparagraph;
(viii) any agreement or transaction referred to in this subparagraph including any guarantee or reimburse-
ment obligation by or to a stockbroker, securities clearing agency, financial institution, or financial institution in connection with any agreement or transaction referred to in this subparagraph, but not to exceed the damages in connection with any such agreement or trans-
action, measured in accordance with section 562; and
(ix) any agreement or transaction that is similar to an agreement or transaction referred to in this subparagraph;
(x) any combination of the agreements or transactions referred to in this paragraph;
(xi) any option to enter into an agreement or transaction referred to in this paragraph;
(xii) any agreement or transaction referred to in this paragraph, without regard to whether the mas-
ter agreement provides for an agreement or transaction that is not a commodity contract under this subparagraph or an agreement or transaction under the master agreement that is referred to in subpara-
graph (A), (B), (C), (D), (E), (F), (G), or (H); or
(xiii) any agreement or transaction referred to in this paragraph including any guarantee or reim-
bursement obligation by or to a commodity broker or any other credit enhancement related to any such agreement or transaction referred to in this paragraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with sec-
section 562;''.
(2) in section 741(f), by striking paragraph (7) and inserting the following:
"(7) 'master netting agreement participant' means—"
"(A) a Federal reserve bank, or an entity (domestic or foreign) that is a commercial or sav-
banks, including savings banks, savings and loan associations, and thrift institutions, or a custo-
maker of a swap transaction, including a customer in connection with a securities contract, as defined in section 741, such customer, or
(B) a customer in connection with securities contract, as defined in section 741, an investment com-
pany registered under the Investment Company Act of 1940;''; and
"(2) by inserting after paragraph (22) the fol-
lowing:
"(22A) 'financial participant' means—"
"(A) an agreement providing for the exercise of rights, including rights of netting, setoff, liquidation, termination, acceleration, or closeout, under or in connection with one or more contracts that are described in any one or more of paragraphs (1) through (5) of section 561(a), or
(B) any agreement or arrangement or any other credit enhancement related to one or more of the foregoing, including any guar-
antee or reimbursement obligation related to or more of paragraphs (1) through (5) of section 561(a); and
"(B) any agreement or transaction referred to in this paragraph, without regard to whether the mas-
ter agreement provides for an agreement or transaction that is not a commodity contract under this subparagraph or an agreement or transaction under the master agreement that is referred to in subpara-
graph (A), (B), (C), (D), (E), (F), (G), or (H); or
(xii) any agreement or transaction referred to in this subparagraph including any guarantee or reim-
bursement obligation by or to a stockbroker, securities clearing agency, financial institution, or financial institution in connection with any agreement or transaction referred to in this subparagraph, but not to exceed the damages in connection with any such agreement or trans-
action, measured in accordance with section 562; and
(xiii) any agreement or transaction that is similar to an agreement or transaction referred to in this subparagraph;
(xiv) any combination of the agreements or transactions referred to in this paragraph;
(xv) any option to enter into an agreement or transaction referred to in this paragraph;
(xvi) any agreement or transaction referred to in this paragraph, without regard to whether the mas-
ter agreement provides for an agreement or transaction that is not a commodity contract under this subparagraph or an agreement or transaction under the master agreement that is referred to in subpara-
graph (A), (B), (C), (D), (E), (F), (G), or (H); or
(xvii) any agreement or transaction referred to in this paragraph including any guarantee or reim-
bursement obligation by or to a commodity broker or any other credit enhancement related to any such agreement or transaction referred to in this paragraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with sec-
section 562;''.
(b) Definitions of Financial Institution, Financial Participant, and Forward Contract.—Section 741(f) of title 11, United States Code, is amended—
(1) by striking paragraph (22) and inserting the following:
"(22) 'financial institution means—"
"(A) a Federal reserve bank, or an entity (domestic or foreign) that is a commercial or sav-
banks, including savings banks, savings and loan associations, and thrift institutions, or a custo-
maker of a swap transaction, including a customer in connection with a securities contract, as defined in section 741, such customer, or
(B) in connection with a securities contract, as defined in section 741, an investment com-
pany registered under the Investment Company Act of 1940;''; and
"(2) by inserting after paragraph (22) the fol-
lowing:
"(22A) 'financial participant means—"
"(A) an agreement providing for the exercise of rights, including rights of netting, setoff, liquidation, termination, acceleration, or closeout, under or in connection with one or more contracts that are described in any one or more of paragraphs (1) through (5) of section 561(a), or
(B) any agreement or arrangement or any other credit enhancement related to one or more of the foregoing, including any guar-
antee or reimbursement obligation related to or more of paragraphs (1) through (5) of section 561(a); and
"(B) any agreement or transaction referred to in this paragraph, without regard to whether the mas-
ter agreement provides for an agreement or transaction that is not a commodity contract under this subparagraph or an agreement or transaction under the master agreement that is referred to in subpara-
graph (A), (B), (C), (D), (E), (F), (G), or (H); or
(xii) any agreement or transaction referred to in this subparagraph including any guarantee or reim-
bursement obligation by or to a stockbroker, securities clearing agency, financial institution, or financial institution in connection with any agreement or transaction referred to in this subparagraph, but not to exceed the damages in connection with any such agreement or trans-
action, measured in accordance with section 562; and
(xiii) any agreement or transaction that is similar to an agreement or transaction referred to in this subparagraph;
(xiv) any combination of the agreements or transactions referred to in this paragraph;
(xv) any option to enter into an agreement or transaction referred to in this paragraph;
(xvi) any agreement or transaction referred to in this paragraph, without regard to whether the mas-
ter agreement provides for an agreement or transaction that is not a commodity contract under this subparagraph or an agreement or transaction under the master agreement that is referred to in subpara-
graph (A), (B), (C), (D), (E), (F), (G), or (H); or
(xvii) any agreement or transaction referred to in this paragraph including any guarantee or reim-
bursement obligation by or to a commodity broker or any other credit enhancement related to any such agreement or transaction referred to in this paragraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with sec-
section 562;''.
(3) in section 761(a), by striking ''in connection with a swap'' and inserting ''in connection with one or more master swap agreements or any contract or agreement subject to such agree-
ments that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with any such agreement or any contract or agreement subject to such agree-
ments against cash, securities, or other property held by, pledged to and under the control of, or due from such swap partici-
pant or financial participant to margin, guarantee, secure, or settle any swap agreement;''; and
(D) by inserting after paragraph (26), as added by this Act, the following new paragraph:
"(27A) 'master netting agreement participant of a mutual debt and claim under or in connection with one or more master netting agreements or any contract or agreement subject to such agree-
ments against cash, securities, or other property held by, pledged to and under the control of, or due from such swap partici-
pant or financial participant to margin, guarantee, secure, or settle any swap agreement;''; and
"(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 pro-
cessing under this title of such agreements or any contract or agreement subject to such agreements, to the extent that such participant is eligible to exercise such offset rights under paragraph (6), (7), or (17) for each individual contract covered by the master netting agreement in issue; or
"(n) limitation.—Section 546 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:
"(3) in subsection (g) (as added by section 103 of Public Law 101–311)—"
"(A) by striking "'under a swap agreement';";
"(B) by inserting 'and inserting “under in or 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:

“(6) section 540(d)(2) of title 11, United States Code, is amended—
(1) in subparagraph (C), by striking “and” at the end; and
(2) in subparagraph (D), by striking the period and inserting “; and”; and
(3) by adding at the end the following:

“§560. Contractual right to liquidate, terminate, or accelerate a swap agreement.

(1) in the first sentence, by striking “termination, liquidation, or acceleration of one or more swap agreements”; and
(2) by inserting ‘in connection with any swap agreement’ after ‘liquidation, termination, or acceleration of one or more swap agreements’; and
(3) by striking ‘in connection with any swap agreement’ after ‘and’ in section 540(d)(2) of title 11, United States Code, and amending—
(1) by amending the section heading to read as follow:
§555. Contractual right to liquidate, terminate, or accelerate a securities contract
and
(2) in the first sentence, by striking “liquida-
tion” and inserting “liquidation, termination, or acceleration”;

(b) TERMINATION OR ACCELERATION OF SWAP AGREEMENTS.—Section 556 of title 11, United States Code, is amended—
(1) by amending the section heading to read as follows:
§556. Contractual right to terminate, liquidate, or accelerate a swap agreement and across contracts;
proceedings under chapter 15

(2) in the first sentence, by striking “liquida-
tion” and inserting “liquidation, termination, or acceleration”;
and
(3) in the second sentence, by striking “As used” and all that follows through “right,” and inserting “As used in this section, the term ‘contractual right’ includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Futures Trading Commission Improvement Act of 1991), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corpora-
tion Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Ex-
change Act, a derivatives transaction execution facility registered under the Commodity Ex-
change Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right.’’;

(c) DEFINITION.—As used in this section, the term ‘contractual right’ includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Futures Trading Commission Improvement Act of 1991), a liquidation, termination, or acceleration of one or more swap agreements; and
(4) by reason of normal business practice.

§561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15

(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), the exercise of a contractual right, including a right that is conditioned on the presence or absence of assets of the debtor, may be stayed or otherwise limited by operation of any provision of this title or by 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.

(b) Exception.—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 would otherwise exercise such a right under section 555, 556, 559, or 560 for each individual contract covered by the master netting agreement in issue.

(1) COMMODITY BROKERS.—If a debtor is a commodity broker subject to subchapter IV of chapter 7—
(2) COMMODITY BROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 766 the following:
§753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, swap participants, and master netting agreement participants.

"Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, stockbroker, 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."

§752. 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, repurchase agreement, or master netting agreement pursuant to section 365(a), or if a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant liquidates, terminates, or accelerates such contract or agreement, damages shall be measured as of the earlier of—

(1) the date of such rejection; or

(2) the date of such liquidation, termination, or acceleration;" and

§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, repurchase agreement, or master netting agreement pursuant to section 365(a), or if a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant liquidates, terminates, or accelerates such contract or agreement, damages shall be measured as of the earlier of—

(1) the date of such rejection; or

(2) the date of such liquidation, termination, or acceleration;"; and

SEC. 907A. SECURITIES BROKER/COMMODITY BROKER.

"The Securities and Exchange Commission and the Commodity Futures Trading Commission may consult with each other with respect to their respective jurisdiction over swap agreements, or to foreclose on any cash collateral with one or more of such contracts or agreements, or to foreclose on any cash collateral with respect to which security futures products will be treated as commodity contracts or securities in a liquidation of a person that is both a securities broker and a commodities broker or with respect to the treatment in such a liquidation of accounts in which both commodity contracts and securities are carried."

SEC. 907B. RECORDKEEPING REQUIREMENTS.

Section 11(a)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(o)(8)) is amended by adding at the end the following subparagraph:

"(H) 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 (including market valuations) only if such insured depository institution is in a troubled condition (as such term is defined by the Corporation pursuant to 12 U.S.C. 1831h)."

SEC. 909. 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 depositor referred to in section 11(a)(2), including an agreement to provide collateral in lieu of a surety bond; or

(B) bankruptcy estate funds pursuant to section 364(b)(2) of title 11, United States Code; or

(C) extensions of credit, including any overdraft, from a Federal reserve bank or Federal home loan bank; or

(D) one or more qualified financial contracts, as defined in section 11(e)(8), 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 because of pledges, deposits, or transfers of collateral made in accordance with such agreement.

SEC. 911. SIPC STAY.

"If the trustee rejects a swap agreement, securities contract (as defined in section 741), or other credit extension by, any insured depository institution, or any depositor referred to in section 11(a)(2), including an agreement to provide collateral in lieu of a surety bond; or

(B) bankruptcy estate funds pursuant to section 364(b)(2) of title 11, United States Code; or

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(B) bankruptcy estate funds pursuant to section 364(b)(2) of title 11, United States Code; or

(C) extensions of credit, including any overdraft, from a Federal reserve bank or Federal home loan bank; or

(D) one or more qualified financial contracts, as defined in section 11(e)(8), 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 because of pledges, deposits, or transfers of collateral made in accordance with such agreement.

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(C) extensions of credit, including any overdraft, from a Federal reserve bank or Federal home loan bank; or

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(B) bankruptcy estate funds pursuant to section 364(b)(2) of title 11, United States Code; or

(C) extensions of credit, including any overdraft, from a Federal reserve bank or Federal home loan bank; or

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(B) bankruptcy estate funds pursuant to section 364(b)(2) of title 11, United States Code; or

(C) extensions of credit, including any overdraft, from a Federal reserve bank or Federal home loan bank; or

(D) one or more qualified financial contracts, as defined in section 11(e)(8), 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 because of pledges, deposits, or transfers of collateral made in accordance with such agreement.

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(B) bankruptcy estate funds pursuant to section 364(b)(2) of title 11, United States Code; or

(C) extensions of credit, including any overdraft, from a Federal reserve bank or Federal home loan bank; or

(D) one or more qualified financial contracts, as defined in section 11(e)(8), 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 because of pledges, deposits, or transfers of collateral made in accordance with such agreement.

SEC. 911. SIPC STAY.

"If the trustee rejects a swap agreement, securities contract (as defined in section 741), or other credit extension by, any insured depository institution, or any depositor referred to in section 11(a)(2), including an agreement to provide collateral in lieu of a surety bond; or

(B) bankruptcy estate funds pursuant to section 364(b)(2) of title 11, United States Code; or

(C) extensions of credit, including any overdraft, from a Federal reserve bank or Federal home loan bank; or

(D) one or more qualified financial contracts, as defined in section 11(e)(8), 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 because of pledges, deposits, or transfers of collateral made in accordance with such agreement.

SEC. 911. SIPC STAY.
(ii) Notwithstanding clause (i), such application, order, or decree may operate as a stay of the foreclosure on, or disposition of, securities collateral pledged by the debtor, whether or not with knowledge of such collateral in an agreement, securities sold by the debtor under a repurchase agreement, or securities lent under a securities lending agreement.

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:

"(28) any eligible asset (or proceeds thereof), to the extent that such eligible asset was transferred by the debtor, before the date of commencement of the case, to an eligible entity in connection with an asset-backed securitization, except to the extent such asset (or proceeds or value recovered by the trustee under section 350 by virtue of avoidance under section 548(a)); and

(2) by adding at the end the following new subsection:

"(f) For purposes of this section—

"(1) the term ‘asset-backed securitization’ means a transaction in which eligible assets transferred to an eligible entity are used as the source of payment on securities, including, without limitation, all securities issued by governmental units, at least one class or tranche of which was rated investment grade by one or more nationally recognized securities rating organizations, when the securities were initially issued by an issuer;

"(2) the term ‘eligible asset’ means—

"(A) financial assets (including interests therein and proceeds thereof), either fixed or reversionary, whether or not the same are in existence as of the date of the transfer, including residential and commercial mortgage loans, consumer receivables, trade receivables, assets of governmental entities, including payment transactions relating to taxes, receipts, fines, tickets, and other sources of revenue, and lease receivables, that, by their terms, convert into cash within a period of one year or more, plus any residual interest in property subject to receivables included in such financial assets plus any rights or other assets designed to assure the servicing or timely distribution of proceeds to security holders;

"(B) cash; and

"(C) securities, including without limitation, all securities issued by governmental units;

"(3) the term ‘eligible entity’ means—

"(A) an issuer; or

"(B) a trust, corporation, partnership, governmental unit, limited liability company (including a single-member limited liability company), or other entity engaged exclusively in the business of acquiring and transferring eligible assets directly or indirectly to an issuer and taking assignments or other actions ancillary thereto;

"(4) the term ‘issuer’ means a trust, corporation, partnership, governmental unit, limited liability company (including a single-member limited liability company), or other entity engaged exclusively in the business of acquiring and holding eligible assets, issuing securities backed by eligible assets, and taking actions ancillary thereto;

"(5) the term ‘transferred’ means the debtor, under a written agreement, represented and warranted that eligible assets were sold, contributed, and provided with the knowledge of removing them from the estate of the debtor pursuant to subsection (b)(8) (whether or not reference is made to this title or any section hereof), irrespective and without limitation of—

"(A) whether the debtor directly or indirectly obtained or held an interest in the issuer or in any security issued by the entity; or

"(B) whether the debtor had an obligation to repurchase or to service or supervise the servicing of all or any portion of such eligible assets; or

"(C) the characterization of such sale, contribution, or other conveyance for tax, accounting, regulatory reporting, or other purposes.’’.

SEC. 913. ESTABLISHMENT; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—This title shall take effect on the date of enactment of this Act.

(b) VARIOUS OTHER PROVISIONS OF THE BANKRUPTCY CODE.—The amendments made by this title shall apply with respect to cases commenced or appointments made under any Federal or State law on or after the date of enactment of this Act, but shall not apply with respect to cases commenced or appointments made under any Federal or State law before the date of enactment of this Act.

SEC. 914. SAVINGS CLAUSE.

The amendments 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, definition, or treatment of any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legality Certification For Bank Products Act of 2000, the securities laws (as that term is defined in section 174(1) of the Securities Exchange 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 section 1219 of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277, 112 Stat. 2681-610), and amended by this Act, is reenacted.

(2) EFFECTIVE DATE.—Subsection (a) shall be deemed to have taken effect on July 1, 2000.

(b) CONFORMING AMENDMENTS.—Section 302 of the Bankruptcy, Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended by striking subsection (1).

SEC. 1002. DEBT LIMIT INCREASE.

(a) IN GENERAL.—Section 101(a)(18) of title 11, United States Code, is amended by adding at the end the following:

"(29) ‘commercial fishing vessel’ means a vessel used by a fisherman to carry out a commercial fishing operation;"

SEC. 1003. CERTAIN CLAIMS OWED TO GOVERNEM-
MENTAL UNITS.

(a) CONTINUATION.—Section 102(a)(2) of title 11, United States Code, is amended to read as follows:

"(2) provide for the full payment, in deferred cash payments, of debts owed to entitled to priority under section 507, unless—

"(A) the claim is a claim owed to a governmental unit that arises as a result of the sale, transfer, exchange, or other disposition of any farm asset used in the debtor’s farming operation, in which case the claim shall be treated as an unsecured claim that is not entitled to priority under section 507, but the debt shall be treated in such manner only if the debtor receives a discharge; or

"(B) the holder of a particular claim agrees to a different treatment of that claim;”.

(b) SPECIAL NOTICE PROVISIONS.—Section 1213(b) of title 11, United States Code, as so designated by this Act, is amended by striking ‘‘a State or local governmental unit’’ and inserting ‘‘any governmental unit’’. The holder of a particular claim agrees to a different treatment of that claim;’’.

SEC. 1004. DEFINITION OF FAMILY FARMER.

The term ‘family farmer’ in section 101(18) of title 11, United States Code, is amended—
(1) in subparagraph (A)—

"(A) by striking ‘‘$5,000,000’’ and inserting ‘‘$3,000,000’’; and

(2) in subparagraph (B)(ii)—

"(A) by striking ‘‘$5,000,000’’ and inserting ‘‘$3,000,000’’; and

"(B) by striking ‘‘80’’ and inserting ‘‘50’’.

SEC. 1005. ELIMINATION OF REQUIREMENT THAT FAMILY FARMER AND SPOUSE RECEIVE OVER 50 PERCENT OF INCOME FROM FARMING OPERATION IN YEAR PRIOR TO BANKRUPTCY.

Section 101(18)(A) of title 11, United States Code, is amended by striking ‘‘the taxable year preceding the taxable year’’ and inserting ‘‘at least 1 of the 3 calendar years preceding the year’’.

SEC. 1006. PROHIBITION OF RETROSPECTIVE AS-
SESSMENT OF DISPOSABLE INCOME.

(a) IN GENERAL.—Section 122(3) of title 11, United States Code, as amended by adding at the end the following:

"(3) If the plan provides for specific amounts of property to be distributed, an accurate statement of allowed unsecured claims as required by paragraph (1)(B), those amounts equal or exceed the debtor’s projected disposable income for that period, and the plan meets the requirements for confirmation other than those of this subsection, the plan shall be confirmed.’’.

(b) MODIFICATION.—Section 1229 of title 11, United States Code, is amended by adding at the end the following:

"(d)(1) A modification of the plan under this section may not increase 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 particular month 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 complete the plan if 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:

"(A) ‘commercial fishing operation’ includes—

"(A) the catching or harvesting of fish, shrimp, lobsters, archiarc, seaweed, shellfish, or other aquatic species or related aquatic species or related aquatic 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 for hire (as defined in section 2101 of title 46) who is engaged in recreational fishing;

"(B) ‘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 aggregate noncontingent, liquidated debts (excluding a debt for the principal residence of 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) who receive from such commercial fishing operation more than 50 percent of such individual’s or such family’s income for the taxable year preceding the taxable year in which the case concerning such individual or such individual and spouse was filed; or

(B) a corporation or partnership—

(i) in which more than 50 percent of the outstanding stock or equity is held by—

1) a family that conducts the commercial fishing operation; or

2) I family and the relatives of the members of such family, and such family or such relatives conduct the commercial fishing operation; and

3) (i) more than 80 percent of the value of its assets consists of assets related to the commercial fishing operation; and

(ii) its aggregate debts do not exceed $1,500,000 and not less than 80 percent of its aggregate noncontingent, liquidated debts (excluding a debt for a dwelling which is owned by such corporation or partnership and which a shareholder or partner maintains as a principal residence, 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 corporation or such partnership; and

(III) if such corporation issues stock, such stock is not publicly traded; and

(iv) by inserting after paragraph (19A) the following:

19B. ‘family fisherman with regular annual income’ means a family fisherman whose annual income is sufficiently stable and regular to enable such family fisherman to make payments under a plan under chapter 12 of this title;”;

Who MAY BE A DEBTOR.—Section 109(f) of title 11, United States Code, is amended by inserting after paragraph (1) the following:

(a) ‘farm’ or ‘family fisherman’ after ‘family farmer’:

(c) Chapter 12—Chapter 12 of title 11, United States Code, is amended—

(1) in the matter preceding heading, by inserting ‘or FISHERMAN after ‘FAMILY FARMER’;

(2) in section 1201, by adding at the end the following:

(2A) Notwithstanding any other provision of law, for purposes of this subsection, a guardian of a claim of a creditor under this section shall be treated in the same manner as a creditor with respect to the operation of a stay under this section.

(2B) For purposes of a claim that arises from the ownership or operation of a commercial fishing operation, a co-maker of a loan made by a creditor under this section shall be treated in the same manner as a creditor with respect to the operation of a stay under this section.

(2C) In section 1206, by inserting ‘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 farmland, farm equipment, or property of a commercial fishing operation (including a commercial fishing vessel)’;

(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 any commercial fishing vessel of a family fisherman whose debts of that family fisherman shall be treated in the manner prescribed in paragraph (2),

(2A) 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 applicable maritime law, shall be treated as an unsecured claim.

(2B) Subparagraph (A) applies to a claim for a lien resulting from a debt of a family fisherman incurred on or after the date of enactment of this chapter.

(2C) A lien described in this subsection is—

(I) a maritime lien under subsection (c) of chapter 12 of title 11; or

(II) a lien upon real property or personal property, including a vessel registered in the United States, under section 31343 of title 46; or

(2D) a lien upon applicable State law (or the law of a political subdivision thereof).

(3) Subsection (a) shall not apply to—

(A) a claim made by a member of a crew or a seaman including a claim made for—

(i) wages, maintenance, or cure;

(ii) personal injury;

(iii) a preferred ship mortgage that has been perfected under subsection (c) of chapter 12 of title 31343 of title 46;

(B) a claim described in subsection (c) of chapter 12 of title 11; or

(4) For purposes of this chapter, a mortgage described in subsection (c)(2) shall be treated as a secured claim.

(b) CLERICAL AMENDMENTS.—

(1) TABLE OF CHAPTERS.—In the table of chapters for title 11, United States Code, the item relating to chapter 12, is amended to read as follows:

12. Adjustments of Debts of a Family Farmer or Family Fisherman with Regular Annual Income

(2) TABLE OF SECTIONS.—The tables of sections for title 11, United States Code, is added by amending at the end the following new item:

1232. Additional provisions relating to family fishermen.

(e) Applicability.—Nothing in this section shall change, affect, or amend the Farm Security 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) in the chapter heading, by inserting ‘and other administrative expense’ after ‘administrative expense’;

(2) in section 1203, by inserting ‘commercial’ after ‘certified health care professional’;

(b) CLERICAL AMENDMENT.—The table of sections for chapter 12 of title 11, United States Code, is amended by inserting after the item relating to section 1204 the following:

(1) ‘health care business’—

(I) skilled nursing facility;

(II) ancillary ambulatory, emergency, 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

(VI) 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), (IV), or (V), if that institution is primarily engaged in offering room, board, laundry, or personal assistance with activities of daily living and incidentals to activities of daily living’’;

(b) PATIENT AND PATIENT RECORDS DEFINED.—Section 101 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 required to be maintained 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 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:

(i) The trustee shall—

(A) promptly publish notice, in one or more appropriate newspapers, that if patient records are not claimed by a patient or a patient’s personal representative (if any) by the specified date, the trustee will destroy the patient records; and

(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 and appropriate insurance carrier concerning the patient records by mailing to the last known address of that patient, or a family member or contact person for that patient, an appropriate insurance carrier an appropriate notice regarding the claiming or disposing of patient records.

(ii) 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 a written request 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.

(iii) 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’s personal representative, 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) if the records are magnetic, optical, or other electronic records or otherwise destroying those records so that those records cannot be retrieved.

(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:

(3) 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 551(1) of title 5) or a department or agency of a State or political subdivision thereof, including any cost or expense incurred—
(A) in disposing of patient records in accordance with section 331; or
(B) in connection with transferring patients from the health care business that is in the process of being closed to another health care business;

(9) with respect to a nonresidential real property lease previously assumed under section 365, as modified, a sum equal to all monetary obligations due, excluding those arising from or related to a failure to operate or penalize, 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 reason whatsoever except for sums actually received or to be received from a noninsider for remaining unexpired lease term 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 I 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.—

"(1) AUTHORITY TO APPOINT.—Not later than 30 days after the date on which a case commenced by a health care business under chapter 7, 9, or 11, the court shall order the appointment of an ombudsman to monitor the quality of patient care to represent the interests of the patients of the health care business, unless the court finds that the appointment of the ombudsman is not necessary for the protection of patients under the specific facts of the case.

"(2) QUALIFICATIONS.—If the court orders the appointment of an ombudsman, the United States trustee shall appoint 1 disinterested person, as determined by the court, to serve as an ombudsman. If the health care business is a long-term care facility, the ombudsman shall be a person who is not a family farmer.

"(b) DUTIES.—An ombudsman appointed under subsection (a) shall—

"(1) monitor the quality of patient care, to the extent necessary under the circumstances, including interviewing patients and physicians;

"(2) within 60 days after the date of appointment, and not less frequently than every 60 days thereafter, report to the court, at a hearing or in writing, regarding the quality of patient care at the health care business involved; and

"(3) if the ombudsman determines that the quality of patient care is declining significantly or is otherwise materially compromised, the ombudsman shall have access to patient records, consistent with authority spelled out in the Older Americans Act and State laws governing the State Long-Term Care Ombudsman program."

(2) Clerical Amendment.—The table of sections for title XI of title 11, United States Code, is amended by inserting after the item relating to section 331 the following:

"332. Appointment of ombudsman."
benefit of a creditor that is an insider, such transfer shall be considered to be avoided under this section only with respect to the creditor that is an insider.”.

(b) APPLICABILITY.—The amendments made by this section shall apply to any case that is pending or commenced on or after the date of enactment of this Act.

SEC. 1217. ABANDONMENT OF RAILROAD LINE.

Section 1170(1)(a) of title 11, United States Code, is amended—

(1) by striking “as in effect on the date of the filing of this section” and inserting “as in effect on the date of the filing of this section only with respect to the creditor that is an insider”;

(2) by striking “and such real property” and inserting “such real property and”;

(3) by striking “the interest” and inserting “such interest”;

and

SEC. 1218. CONTENTS OF PLAN.

Section 1123(d) of title 11, United States Code, as amended by this Act, is amended by inserting “made under subsection (c)”.

SEC. 1219. BANKRUPTCY CASES AND PROCEEDINGS.

Section 1334(d) of title 28, United States Code, is amended—

(1) by striking “made under this subsection” and inserting “made under subsection (c)”;

and

SEC. 1220. KNOWING DISREGARD OF BANKRUPTCY LAW OR RULE.

Section 1161(a) of title 11, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting “(1) the term ‘nonbankruptcy’;” before “bankruptcy’;”;

(B) by striking the period at the end and inserting “;”; and

(2) in the second undesignated paragraph—

(A) by inserting “(2) the term before ‘document’;”;

(B) by striking “this title” and inserting “title II”.

SEC. 1221. TRANSFERS MADE BY NONPROFIT CHARITABLE CORPORATIONS.

(a) SALE OF PROPERTY OF ESTATE.—Section 363(d) of title 11, United States Code, is amended by striking “only” and all that follows through the end of the subsection and inserting “only”—

“(1) in accordance with applicable nonbankruptcy law that governs the transfer of property by a corporation or trust that is not a nongovernmental business, or commercial corporation or trust; and

“(2) to the extent not inconsistent with any relief allowed under subsection (c), (d), (e), or (f) of section 362.”;

(b) CONFIRMATION OF PLAN FOR REORGANIZATION.—Section 1129(a) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

“(H) All transfers of property of the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a nongovernmental business, or commercial corporation or trust; and

“(I) Notwithstanding any other provision of this title, property that is held by a debtor that is a corporation described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code may be transferred to an entity that is not such a corporation, but only under the same conditions as would apply if the debtor had not filed a case under this title.”.

(d) APPLICABILITY.—The amendments made by this section shall apply to a case pending under title 11, United States Code, as amended by this Act, without considering whether this section would substantially affect the rights of a party in interest who first acquired rights with respect to the debtor after the date the amendment by this Act initially appears and be heard in a proceeding under this section include the attorney general of the State in which the debtor is incorporated, was formed, or does business.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the court in which a case under chapter 11 of title 11, United States Code, is pending to remand or refer any proceeding, issue, or controversy to any other court or to require the approval of any other court for the transfer of property.

SEC. 1222. PROTECTION OF VALID PURCHASE MONEY SECURITY INTERESTS.

Section 547(c)(3)(B) of title 11, United States Code, is amended by striking “20” and inserting “30”.

SEC. 1223. BANKRUPTCY JUDGESHIPS.

(a) SHORT TITLE.—This section may be cited as the “Bankruptcy Judgeship Act of 2001”.

(b) TEMPORARY JUDGESHIPS.—

(1) APPOINTMENTS.—The following judgeship positions shall be filled in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the following bankruptcies in the United States court of appeals:

(A) One additional bankruptcy judgeship for the eastern district of Pennsylvania.

(B) One 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 southern district of Mississippi.

(I) One additional bankruptcy judgeship for the district of New Jersey.

(J) One additional bankruptcy judgeship for the eastern district of New York.

(K) One additional bankruptcy judgeship for the northern district of New York.

(L) One additional bankruptcy judgeship for the southern district of New York.

(M) One additional bankruptcy judgeship for the eastern district of North Carolina.

(N) One additional bankruptcy judgeship for the eastern district of Pennsylvania.

(O) One additional bankruptcy judgeship for the middle district of Pennsylvania.

(P) One additional bankruptcy judgeship for the district of Puerto Rico.

(Q) One additional bankruptcy judgeship for the western district of Tennessee.

(R) One additional bankruptcy judgeship for the eastern district of Virginia.

(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 occurring in the office of a bankruptcy judge in each of the judicial districts set forth in paragraph (1) shall not be filled if the vacancy—

(A) results from the death, retirement, resignation, or removal of a bankruptcy judge; and

(B) occurs 5 years or more after the appointment date of a bankruptcy judge appointed under this section.

(c) EXTENSIONS.—

(1) IN GENERAL.—The temporary bankruptcy judgeships positions authorized for the northern district of Alabama, the district of Puerto Rico, and the eastern district of Tennessee under paragraphs (1), (3), (7), and (9) of section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) are extended until the first vacancy occurring in the office of a bankruptcy judge in the applicable district results from the death, retirement, resignation, or the removal of a bankruptcy judge and occurring—

(A) 11 years or more after November 8, 1992, with respect to the northern district of Alabama; and

(B) 13 years or more after October 29, 1992, with respect to the district of Delaware;

(C) 11 years or more after August 29, 1994, with respect to the district of Puerto Rico; and

(D) 11 years or more after November 23, 1993, with respect to the eastern district of Tennessee.

(2) APPLICABILITY OF OTHER PROVISIONS.—All other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) remain applicable to temporary bankruptcy judges positions referred to in this subsection.

(d) TECHNICAL AMENDMENTS.—Section 152(a) of title 28, United States Code, is amended—

(1) in paragraph (1), by striking the first sentence and inserting the following: “Each bankruptcy judge to be appointed for a judicial district, as provided in paragraph (2), shall be appointed by the United States court of appeals for the circuit in which such district is located.”;

and

(2) in paragraph (2)—

(A) in the item relating to the middle district of Georgia, by striking “2” and inserting “3”;

and

(B) in the collective item relating to the middle and southern districts of Georgia, by striking “Middle and Southern . . . . . . . 1”.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

SEC. 1224. COMPENSATING TRUSTEES.

Section 1326 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking “and”;

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

(C) by adding at the end the following:

“(2) if a chapter 7 trustee has been allowed compensation due to the conversion or dismissal of the debtor’s prior case pursuant to section 707(b), and some portion of that compensation remains unpaid in a case converted to this chapter or in the case dismissed under section 707(b) and referred under this chapter, the amount of any such unpaid compensation, which shall be paid monthly—

(A) by prorating such amount over the remaining duration of the chapter; and

(B) by monthly payments not to exceed the greater of—

(i) $25; or

(ii) the amount payable to unsecured nonpriority creditors, as provided by the plan, multiplied by 5 percent, and the result divided by the number of months in the plan.”; and

(2) by adding at the end the following:

“(D) Notwithstanding any other provision of this title—

(1) compensation referred to in subsection (b) is only payable and may be collected by the trustee under that paragraph, even if such amount has been discharged in a prior proceeding under this title; and

(2) such compensation shall be payable in a case under this chapter only to the extent permitted by subsection (b)(3).”.

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SEC. 1225. AMENDMENT TO SECTION 362 OF TITLE 11, UNITED STATES CODE.

Section 362(b)(18) of title 11, United States Code, is amended to read as follows:

"(b) IN GENERAL.—"(a) The creation or perfection of a statutory lien for an ad valorem property tax, or a special tax or special assessment thereof, or any right or equitable interest therein, imposed by a governmental unit, if such tax or assessment comes due after the filing of the petition;”.

SEC. 1226. JUDICIAL EDUCATION.

The Board of Governors of the Federal Judicial Center, in consultation with the Director of the Executive Office for United States Trustees, shall develop materials and conduct such training as may be useful in implementing this act, and the amendments made by this Act, including the requirements relating to the means test 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 541(c) of title 11, United States Code, is amended to read as follows:

"(c)(1) Except as provided in subsection (d) of this section and subsection (c) 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 sections 544(a), 545, 547, and 549 are subject to the right of a seller of goods that has sold goods of like quality and kind to the debtor in the ordinary course of such seller’s business, to reclaim such goods if the debtor has received such goods while insolvent, not later than 45 days prior to the date of the commencement of a case under this title, but such seller may not reclaim such goods unless such seller demands in writing reclamation of such goods:

"(A) not later than 45 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 509(b)(1).

(b) ADMINISTRATIVE EXPENSES.—Section 503(b) of title 11, United States Code, as amended by this Act, is amended by adding after paragraph (4), as added by this Act, the following:

"(10) the value of any goods received by the debtor not later than 20 days prior to the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor’s business.”.

SEC. 1229. PROVIDING REQUESTED TAX DOCUMENTS TO THE COURT.

(a) CHAP. 11 AND CHAP. 13 CASES.—The court shall not grant a discharge in the case of an individual seeking bankruptcy under chapter 7 of title 11, United States Code, unless requested tax documents have been provided to the court.

(b) Chapter 11 and Chapter 13 Cases.—The court shall not confirm a plan of reorganization in the case of an individual under chapter 11 or 13 of title 11, United States Code, unless requested tax documents have been filed with the court.

(c) DOCUMENT RETENTION.—The court shall destroy documents submitted in support of a bankruptcy claim not sooner than 3 years after the date of the conclusion of a bankruptcy case filed by an individual under chapter 7, 11, or 13 of title 11, United States Code, unless a pending audit or enforcement action, the court may extend the time for destruction of such requested tax documents.

SEC. 1230. ENCOURAGING CREDITWORTHINESS.

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

"(1) lenders may sometimes offer credit to consumers, particularly, without taking steps to ensure that consumers are capable of repaying the resulting debt, and in a manner which may encourage certain consumers to accumulate additional debt; and
"(2) resulting consumer debt may increasingly result in the indiscriminate solicitation and extension of credit by the credit industry; and

(b) EXPENSES OF STANDING TRUSTEES.—Section 506(e) of title 28, United States Code, is amended by adding at the end the following:

"(3) After first exhausting all available administrative remedies provided and available under subsection (b) may obtain judicial review of final agency action to deny a claim of actual, necessary expenses under this subsection by conduct an appeal to a court of final resort in the district in which the individual resides. The decision of the agency shall be affirmed by the court unless it is unreasonable and without cause based on the administrative record before the agency.

"(4) The Attorney General shall prescribe procedures to implement this subsection.”

SEC. 1232. BANKRUPTCY RULES TO COURT CASES TO COURTS OF APPEALS.

Section 2075 of title 28, United States Code, is amended by adding at the end the following:

"The bankruptcy rules promulgated under this section shall prescribe a form for the statement required under section 707(b)(2)(C) of title 11 and may provide general rules on the content of such statement.”

SEC. 1233. EXPEDITED APPEALS OF BANKRUPTCY CASES TO COURTS OF APPEALS.

(a) APPEALS.—Section 158 of title 28, United States Code, is amended by—

"(1) in subsection (c)(1), by striking “Subject to subsection (b),” and inserting “Subject to subsections (b) and (d)”, and

(2) in subsection (d)—

"(A) by inserting “(1)” after “(d)”; and
"(B) by adding at the end the following:

"(2)(A) 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 1586(d)(2) of title 28, to extend an order or decree, or
"(B) an individual may appeal an order or decree originating in a case or proceeding pending under section 157 or 1586(d)(2) of title 28, United States Code, as added by this Act, the Board—

"(c) REPORT AND REGULATIONS.—Not later than 12 months after the date of enactment of this Act, the Board, shall:

"(1) take public a report on its findings with respect to the indiscriminate solicitation and extension of credit by the credit industry; and
"(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 industrywide practices that prevent resulting consumer debt and insolvency.

SEC. 1230. PROPERTY NO LONGER SUBJECT TO REDEMPTION.

Section 541(b) of title 11, United States Code, as amended by this Act, is amended by adding after paragraph (4), as added by this Act, the following:

"(9) subject to subchapter III of chapter 5, any interest of the debtor in property where the debtor pledged or sold tangible personal property (other than securities or writt or printed evidences of indebtedness or title) as collateral for a loan or advance of money given by a person or licensed under law to make such loans or advances, where—

"(A) the tangible personal property is in the possession of the pledgee or transferee;
"(B) the debtor has no obligation to repay the money, redeem the collateral, or buy back the property at a stipulated price; and
"(C) neither the debtor nor the trustee have exercised any right to redeem provided under the contract or State law, in a timely manner as provided under State law and section 108(b) of this title; or

SEC. 1311. 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 “(1)” after “(d)”; and
"(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 chapter 11, shall be deemed to have obtained 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 panel exercising jurisdiction under subsection (a)(1), or in the United States district court for the district in which the trustee is appointed under subsection (b) resides, after first exhausting all administrative remedies, which, if the trustee so elects, shall also include an administrative hearing on the record. Unless the trustee 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 date on which the administrative remedies are completed. The Attorney General shall prescribe procedures to implement this paragraph. The decision of the agency shall be affirmed by the court unless it is unreasonable and without cause based on the administrative record before the agency.”.

(b) EXPENSES OF STANDING TRUSTEES.—Section 506(e) of title 28, United States Code, is amended by adding at the end the following:

"(3) After first exhausting all available administrative remedies provided and available under subsection (b) may obtain judicial review of final agency action to deny a claim of actual, necessary expenses under this subsection by conduct an appeal to a court of final resort in the district in which the individual resides. The decision of the agency shall be affirmed by the court unless it is unreasonable and without cause based on the administrative record before the agency.

"(4) The Attorney General shall prescribe procedures to implement this subsection.”

SEC. 1233. EXPEDITED APPEALS OF BANKRUPTCY CASES TO COURTS OF APPEALS.
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 toll-free telephone number disclosed in this toll-free telephone number (the blank space to be filled in by the creditor).

(6) Exception for Insolvent Political Committees. In the case of a political committee subject to the jurisdiction of the Federal Election Commission under Federal election laws which compliance with this title is enforced by the Federal Trade Commission, the following statement shall be included in the table promulgated by the Board under subparagraph (H)(i) of the rule: ‘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 the balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call the toll-free telephone number disclosed in this toll-free telephone number (the blank space to be filled in by the creditor).’

(7) Application of 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 district court, or bankruptcy appellate panel exercising appellate jurisdiction under subsection (a) or (b) of section 158 of title 28, United States Code.

SEC. 1234. EXEMPTIONS.

Section 522(c)(2) of title 11, United States Code, is amended by striking ‘subsection (f)(2)’ and inserting ‘subsection (f)(1)(B)’.

SEC. 1235. INVOLUNTARY CASES.

Section 302 of title 11, United States Code, is amended by striking ‘subsection (f)(2)’ and inserting ‘subsection (f)(1)(B)’.

SEC. 1236. ELECTION LAW FINES AND PENALTIES AS NONDISCHARGEABLE DEBT.

Section 523(a) of title 11, United States Code, is amended after paragraph (14A) (as added by this Act) by adding—

‘(14B) incurred to pay fines or penalties imposed under Federal election law;’.

SEC. 1237. NONDISCHARGEABILITY FOR INSOLVENT POLITICAL COMMITTEES.

Section 105 of title 11, United States Code, is amended by adding at the end the following:

‘(e) A political committee subject to the jurisdiction of the Federal Election Commission under Federal election laws may 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)(2) of the Truth in Lending Act (15 U.S.C. 1637b(b)) is amended by adding at the end the following:

‘(1) In the case of an open end credit plan that provides minimum monthly payments of not more than 4 percent 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. Making only the typical 2% minimum monthly payment on a balance of $1,000 at an interest rate of 17% would take 88 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum payments, call this toll-free number: (the blank space to be filled in by the creditor).’

(2) In the case of an open end credit plan that requires a minimum monthly payment of more than 4 percent 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 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...’.

(b) Regulatory Implementation.—(1) In General.—The Board of Governors of the Federal Reserve System shall promulgate regulations implementing the requirements of section 127(b)(1)(I) of the Truth in Lending Act (12 U.S.C. 1752) within 2 years of the date of enactment of this section.

(2) Effective Date.—Section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section, and the regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 18 months after the date of enactment of this Act; or

(B) 12 months after the publication of such final regulations by the Board.
(c) STUDY OF FINANCIAL DISCLOSURES.—

(1) IN GENERAL.—The Board may conduct a study to determine the types of information available to potential borrowers from consumer credit providers regarding factors qualifying potential borrowers for credit, repayment requirements, and the consequences of default.

(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 in deciding to take on new credit, and how taking on successive credit can result in financial difficulty;

(B) minimum periodic payment features offered in connection with open end credit plans impact consumer default rates;

(C) consumers make only the required minimum payment under open end credit plans;

(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) rate availability of low minimum payment options is a cause of consumers experiencing financial difficulty.

(3) REPORT TO CONGRESS.—Findings of the Board, based on 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 127(a)(13) of the Truth in Lending Act (15 U.S.C. 1637a(a)(13)) is amended—

(A) by striking ''CONSULTATION OF TAX ADVISER.—A statement that the and inserting the following: ''TAX DEDUCTIBILITY.—A statement that—'';

(B) by striking the period at the end and inserting the following: ''TAX DEDUCTIBILITY.—A statement that—'';

(C) by striking ''the''; and

(D) by adding at the end the following:

"(a) In general.—The Board shall promulgate regulations implementing the amendments made by this section.

(b) EFFECTIVE DATE.—Regulations issued under paragraph (1) shall not take effect until the later of—

(i) 12 months after the date of enactment of this Act;

(ii) 12 months after the date of publication of such final regulations by the Board.

SEC. 1303. DISCLOSURES RELATED TO "INTRODUCTORY RATES".

(a) INTRODUCTORY RATE DISCLOSURES.—Section 127(c)(6) of the Truth in Lending Act (15 U.S.C. 1637(c)(6)) is amended by adding after the end the following:

"(6) ADDITIONAL NOTICE CONCERNING 'INTRODUCTORY RATES'.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), 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 that is applicable to such account, which term shall appear clearly and conspicuously;

(ii) if the annual percentage rate of interest that will apply after the end of the introductory period will end and the 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;

(b) REGULATORY IMPLEMENTATION.—

(i) the term 'introductory period' means the maximum period for which the temporary annual percentage rate may be applicable;

(ii) RELATION TO OTHER DISCLOSURE REQUIREMENTS.—Nothing in this paragraph may be construed to supersede subsection (a) of section 122, or any disclosure required by paragraph (6), or any other provision of this section.''.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(c)(6) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—Section 127(c)(6) of the Truth in Lending Act, as added by this section, and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(i) 12 months after the date of enactment of this Act; or

(ii) 12 months after the date of publication of such final regulations by the Board.

SEC. 1304. INTERNET-BASED CREDIT CARD SOLICITATIONS.

(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 after the end the following:

"(4) RELATION TO OTHER DISCLOSURE REQUIREMENTS.—Nothing in this paragraph may be construed to supersede subsection (a) of section 122, or any disclosure required by paragraph (6), or any other provision of this section.''

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—In any solicitation to open a credit card account for any person under an open end credit plan, 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 be—

(1) readily accessible to consumers in close proximity to the solicitation to open a credit card account; and

(2) updated 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 interconnection 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 server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions;”.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(c)(7) of the Truth in Lending Act, as added by this Act.

(2) EFFECTIVE DATE.—The amendment made by this section—

(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 PAYMENT DEADLINES AND PENALTIES.

(a) DISCLOSURE RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1677(b)) is amended by adding at the end the following—

“(B) FORM OF DISCLOSURE.—The disclosures required by subsection (a) shall be—

(1) readily accessible to consumers in close proximity to the solicitation to open a credit card account; and

(2) updated 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 interconnection 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 server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions;”.

(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 Act.

(2) EFFECTIVE DATE.—The amendment made by this section shall not take effect—

(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. 1677) is amended by adding at the end the following—

“(B) FORM OF DISCLOSURE.—The disclosures required by subparagraph (A) shall be—

(1) readily accessible to consumers in close proximity to the solicitation to open a credit card account; and

(2) updated 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 interconnection 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 server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions;”.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(c)(7) of the Truth in Lending Act, as added by this Act.

(2) EFFECTIVE DATE.—The amendment made by this section 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 shall conduct a study of, and present to Congress a report containing its analysis of, consumer protections under existing law to limit the liability of consumers for unauthorized use or similar access device. Such report, if submitted, shall include recommendations for legislative initiatives, if any, of the Board, based on its findings.

(b) CONSIDERATION.—In preparing a report under subsection (a), the Board may include—

(1) the extent to which section 909 of the Electronic Fund Transfer Act (15 U.S.C. 1693a), as 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 protection for consumers; and

(2) the extent to which any voluntary 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 (15 U.S.C. 1693 et seq.), or revisions to regulations promulgated by the Board to carry out that section, 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.

(b) EXTENSION OF CREDIT.—The extension of credit described in this paragraph is the extension of credit to individuals who are—

(1) claimed as dependents for purposes of the Internal Revenue Code of 1986; and

(2) enrolled within 1 year of successfully completing all required secondary education requirements and on a full-time basis, in postsecondary educational institutions.

(c) 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 containing 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)(11) 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) STANDARDS.—In promulgating regulations under this section, the Board shall ensure that the clear and conspicuous standard required for disclosures under section 127(c)(6)(A) 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 which provide the nature and significance of the information in the notice.

TITLE XIV—ENERGY ASSISTANCE AND CONSERVATION MEASURES

SEC. 1401. SHORT TITLE.

This title may be cited as the “Energy Emergent Response Act of 2001.

SEC. 1402. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) high energy costs are causing hardship for families;

(2) restructuring 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 program reduce costs and need 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 provide assistance to those individuals most affected by high energy prices and to promote and accelerate energy conservation investments and Federal research.

SEC. 1403. INCREASED FUNDING FOR LIHEAP, WEATHERIZATION AND STATE ENERGY GRANTS.

(a) LIHEAP.—(1) Section 2002(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8261(b)) is amended by striking the first sentence and inserting the following: “There are authorized to be appropriated to carry out the provisions of this title (other than section 2007A), $3,400,000,000 for each of fiscal years 2001 through 2005.”

(2) Section 2005(b)(2) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8264(b)(2)) is amended by adding at the end the following:

“and except that during fiscal year 2001, a State may make payments under this title to households with incomes up to and including 200 percent of the poverty level for such State”.

(b) WEATHERIZATION.—Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6772) is amended by striking “For fiscal years 1979 through 1999” and inserting “For fiscal years 1999 through 2005”.

(c) STATE ENERGY CONSERVATION GRANTS.—Section 365(f)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6265(f)(3)) is amended by striking “$500,000 for fiscal years 1999 through 2005” and inserting “$75,000,000 for each of fiscal years 2001 through 2005.”

SEC. 1404. FEDERAL ENERGY MANAGEMENT REVISIONS.

Section 543 of the National Energy Conservation Policy Act (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 not less than 30 percent of the potential efficiency improvements and energy 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. 8287(a)) is amended by adding at the end the following:
"(3)(A) In the case of an energy savings contract or energy savings performance contract providing for energy savings through the construction and operation of one or more buildings or facilities, replacement of 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 building 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) savings resulting from reduced costs of operation and maintenance as described in subparagraph (A)."

SEC. 1408. REPEAL OF ENERGY SAVINGS PERFORMANCE CONTRACT SUNSET.

Section 801(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287(2)) 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 terms 'energy savings' means the result of—

"(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, altered operation and maintenance, or technical services; and

"(ii) more efficient use of existing energy sources by cogeneration or heat 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 energy at an existing federally owned building or buildings, in either interior or exterior applications; or

"(B) a replacement facility under section 801(a)(3)."

(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, acquisition, installation, testing, operation, and, where appropriate, maintenance and repair, of an identified energy, water conservation, or wastewater treatment measure or 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 a follows:

"(4) The term 'energy or water conservation measure' means—

"(A) an energy conservation measure, as defined in section 551(4) (42 U.S.C. 8259h(4)); 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 water-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.
State of Vermont is a leader in the use of wind power. My wind energy bill with representatives Blanchard and Mineta started this program in the late 1970's. Worldwide almost 4,000 megawatts of new wind energy capacity were added in the year 2000. This year will likely see a similar, if not larger increase.

Although much of that capacity was added outside the United States, many of the high-tech jobs needed to make that possible came from inside the United States. And as the use of wind energy goes up, the costs will only come down. The best news of all is that our own wind resources remain largely untapped.

Other forms of renewable energy—such as solar, biomass and geothermal—have the same kinds of benefits:

These technologies provided high-tech jobs for U.S. workers.

They help reduce acid rain and other forms of air pollution, including greenhouse gas emissions.

They are not subject to the kinds of supply changes that lead to large fluctuations in the price of fossil fuels and they help us reduce our dependence on foreign fuels.

This is good for the health of citizens and for the health of our economy.

I thank Senators Reid and Domenici, once again, for their leadership on this issue. I will continue to assist in whatever way I can to ensure that the strong statement made by the Senate today will be included in the final energy and water appropriations bill.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I say to my friend from Vermont, there are a lot of reasons that we increased the funding for renewables, but there is no reason more than the diligence the Senator from Vermont has shown over the past several years on this issue. As a result of his tenacity, every year we have had to increase the funding in this bill.

Senator DOMENICI and I thought: We are not going to do this anymore. The Senator should know his handprints are all over this part of the bill dealing with renewables. But for his efforts, it would not be here.

I am a real believer in renewables. Any long-term energy policy we are working on will be renewable, including solar energy. We have submitted an unanimous consent request to move forward on nominations. I say to my friends in the minority that we have been very anxious to move forward on nominations. We have the President's choice to lead his consumer safety board and we have agreed to move forward on that. It has been reported out of the committee. We have a time set for debating that nomination. That cannot take place until we finish this bill.

In addition to that, Senator Daschle wants to work on the Transportation appropriations bill. We have a number of things we need to do this week. We are not accomplishing them now. Part of it is not the fault of the minority or the majority who have interests in this bill. Part of the problem is having been interrupted by the bankruptcy legislation which takes our eye off the ball. We are back on track, there is nothing to take us off this until we complete the bill.

We have submitted an unanimous consent agreement not on a filing deadline for amendments but, rather, a finite list of amendments. That is now being circulated. We hope that can be approved.

As chairman of this subcommittee and also the Transportation Subcommittee under the Environment and Public Works Committee, I spent a lot of my time thinking about and worrying about the State of our Nation's physical infrastructure. The American Society of Civil Engineers 2001 report card for America's infrastructure gives the Nation's infrastructure a cumulative grade of D+. That is pretty low.

The two prime reasons for the rating include explosive population growth, lack of current investment, and growing obsolescence of an aging system, identified as problems in California and the Nation's infrastructure a cumulative grade of D+. That is pretty low.

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rural America simply does not have the money to meet. With these problems, our infrastructure is in a deep state of distress.

In Nevada, we are witnessing these problems on a daily basis. We have the most urban, suburban, and rural areas of any State in America. It is surprising to people when they learn Nevada is more urban than California, Illinois, Michigan, New York, and Florida. The reasons for that is 90 percent of the people live in the metropolitan areas of Las Vegas and Reno. Only 10 percent of the people live outside of those areas. However, in that 10 percent, it is very rural and it is an example of what we have in rural America.

The growth in the Las Vegas area has been phenomenal. We are having to build schools, roads, water systems, and all other basic infrastructure for modern life for the exploding population. We are having trouble keeping up. We have to build one school each month to keep up with the growth of school districts. We were the sixth largest school district a few months ago; we are now the fifth largest school district. There were 240,000 students in that school district, one new school each month to keep the school district in one year.

The superintendent of education in Clark County where Las Vegas is located it not a superintendent of education, that person is a superintendent of construction. He spends a great deal of his time simply dealing with construction.

At the same time, smaller communities throughout rural Nevada do not have clean drinking water due to natural contaminants in the ground water. The costs for moving the contaminants is several times the annual budgets of most small communities. Flooding problems throughout Nevada continue to devastate lives and property. As I said yesterday, people wonder, how can you have flooding problems in Nevada?

The Senator from Washington, the Presiding Officer, knows the whole State of Washington is not like Seattle, but as you move east in the State of Washington it becomes much the same as some parts of Nevada. I don’t know if it could be called desert, but it sure doesn’t rain very much so the Presiding Officer understands what I am talking about. It almost seems to me that the fact that these rural, arid areas can suffer from real flood problems. It happens when the rains come the waters come, and they cause all kinds of degradation to property and sometimes lives are lost.

Environmental projects are sorely needed when we restore the natural areas of our environment, not only in Nevada but all over the country. Our Nation’s medium and large cities have similar problems as well. Hartford, Atlanta, Chicago, and Richmond have antiquated storm systems that allow sewage and storm water runoff to be collected by the same system and sent to a treatment plant. During heavy rains, these systems are overwhelmed and raw sewage is dumped into our Nation’s waterways.

Many of our citizens still live with the threat of flooding. Environmental projects that restore and rebuild degraded ecosystems are needed throughout our country. The infrastructure that makes up our inland and coastal waterways is really aging. The Corps of Engineers operates 276 navigation locks at 230 sites around the country. Of the 100 of these locks are more than 50 years old. Nearly 100 of the remaining locks are nearly 25 years old. Most of these structures continue to perform as designed, but evidence of the need for reconstruction and modernization is becoming, very evident. Some facilities have reached their capacity and have reached the end of their design lives.

The Army Corps has been serving our Nation’s infrastructure needs for more than 200 years, primarily in the areas of navigation and flood control. While some may quibble with individual projects that Congress instructs the Corps to undertake, no one can question the value that the Corps has historically played and continues to play in our Nation’s development. However, we are slowly but surely strangling the Corps and our Nation’s infrastructure to death with our fiscal inattention.

Financial shortfalls year in and year out in the water accounts of the Army Corps have created a backlog of $40 billion in authorized projects. They are awaiting the first dollar of funding; $40 billion of authorized projects have yet to receive their first dollar of funding.

This shortfall just takes into account the Corps’ historic missions of navigation and flood control and does not take into account some of the new directions Congress has pushed the Corps in recent years. It is wrong to give short shrift to important components of our Nation’s infrastructure. Flood control projects protect human lives and property. Navigation projects ensure that our Nation’s economic engine continues to hum.

We have received some criticism in this bill that we spent too much money on dredging, having water areas made clear so dredges can come up and down. There are examples given that a lot of these projects that we have, there is not much happening. I do not think what it would do if we did not have this large barge traffic. It would only add to the trains that are already overwhelmed. It would only add to the number of trucks, and in my opinion there are too many of them on the roads anyway. So we do not need to go back and review and change some of these projects. We have not had the money in the past to do that. We still don’t. As I have indicated, we continue to underinvest in both of these agencies.

The need for water for municipal and industrial uses is not declining. The need for flood control is not declining. The need for modern navigation to transport products to market is not declining. Yet the budgets of these two agencies seems to continue to dwindle.

For example, I talked about the Newlands Project. In the early years, people were excited to come here. We said: This is going to be great for you and generations to come. People did come here. They have been farming for generations. Now the Federal Government has interfered, causing a disruption in their lives. It is not the fault of the farmers, but certainly the people who put in these reclamation projects did not understand what the full brunt of these programs would be. So people did not go back. We need to go back and review and change some of these projects. We have not had the money in the past to do that. We still don’t. As I have indicated, we continue to underinvest in both of these agencies.

The need for water for municipal and industrial uses is not declining. The need for flood control is not declining. The need for a modern navigation system to transport products to market is not declining. Yet the budgets of these two agencies continues to dwindle.

Public investment including authorization for water infrastructure in 1960 amounted to 3.9 percent of the gross domestic product. Today that figure is down to 2.6 percent, approximately. That may be only a few tenths of a percent, but it is significant change. From 1960 to now, we have gone from $4.5 billion to $1.5 billion. Our water resource needs are no less
today than they were 40 years ago; they are more. Yet we are investing one-third as much. One major impact of that reduction is the increasingly drawn out construction schedules forced by underfunding these projects. These artificially lengthened schedules cause a loss of some $5 billion in annual benefits and increase the cost of these projects by some $500 million. When many of these reclamation projects come to be, the main only intent was for agricultural purposes. Over the years, it has been found that some areas are very interested in these reclamation projects because of the recreation aspects of them. People like to water ski. They like to fish. They like to boat. They like to have picnics on the beach. Now they are competing with these farming projects. We need to go back and take a look at them.

These artificially lengthened schedules cause the loss, as I have indicated, of some $5 billion in benefits, either agricultural or recreational, and increase the cost of these projects by some $500 million—and that is each year. Failure to invest in maintenance, major rehabilitation, and development, and new infrastructure resulted in the gradual reduction in the value of our capital water resources stock and, in turn, the benefits we receive. The value of the Corps’ capital stock peaked with a replacement value of $150 billion. Today its estimated value has decreased to $121 billion. We need to reverse this trend. Public infrastructure is too important to our lives.

Federal waterway projects, including ports and inland waterways, handle more than 2.2 billion tons of our Nation’s cargo, valued at more than $660 billion. As I said before, we could try to put that on trains, on trucks, on airplanes—2.2 billion tons of our Nation’s cargo. I do not think that would be a good idea.

These waterways generate more than 13 million jobs, and Federal taxes collected at ports generate more than $150 billion a year. Federal flood control projects prevent more than $2 billion per year in damages, and my being from Nevada, I can vouch for that. Even though Las Vegas gets 4 inches of rain a year, the flood control projects probably save hundreds of millions of dollars and that in property damage, loss of production, and certainly in lives.

Federal flood control projects prevent more than $2 billion per year in damages. Recreation provided by Federal water projects provide more than 500,000 jobs and provide recreational opportunities to more than 10 percent of the U.S. population. Water stored at Federal projects provides more than 250 million acre-feet of water for municipal, rural, and industrial uses.

How much water is that? Las Vegas with 1.6 million people uses just a little more water than that. Two-hundred and fifty million acre-feet of water is stored at Federal projects. That is important.

Finally, Federal water projects provide nearly 30 percent of our Nation’s hydropower or about 4 percent of our total electric capacity. In the west, the Federal hydropower projects provide an even higher percentage of the total electric capacity—as we have recently learned with the California energy crisis.

Public water infrastructure is the only Federal program that is required to be analyzed on a strict benefit to cost basis. The water infrastructure provided by the Army corps alone provides an annual rate of return of approximately 26 percent. The steam of benefits are realized as flood damages prevented, reduced transportation costs, electricity, recreation, and water supply services.

Society’s values are increasingly emphasizing sustainability and ecological considerations in water infrastructure management and development. Like most people, I support these considerations.

The Army corps and reclamation expend nearly a quarter of their annual budget on maintenance, repair, and rehabilitation. These ranges from major restoration projects such as the Comprehensive Everglades Restoration, to smaller projects, such as oyster recovery efforts in the Chesapeake Bay. Both agencies work hard to meet the nation’s challenges in this arena.

As you can see, I am one who firmly believes that investments in our nation’s infrastructure more than pay for themselves through improved productivity and efficiency. To ignore these needs in the short term is going to cause us problems over the long haul. All of this is to say that we, as a body, need to think about the state of our nation’s infrastructure comprehensively and sustainably.

Our physical infrastructure sustains our way of life, so we must sustain it. We are here today to discuss energy and water matters, but, in the next few weeks, I hope to come back to the floor to discuss our nation’s transportation infrastructure, another area of concern.

Before I close, I want to say some words of praise for the Federal employees and contractors that populate the departments, agencies, and other organizations that are funded under this bill.

Members of Congress are frequently critical of Federal agencies and departments, particularly ones where we have an oversight role. As I mentioned earlier, I have been a frequent critic of the Department of Energy.

But I have said that I think things are greatly improving as a result of some work done by Senator Domenci and some of his colleagues. None of that is to suggest that I, or any other Member, am anything other than proud of the hard work and accomplishments of our Federal work-force, including, contractors, lab employees, and others that make these important organizations run.

I invite everyone who has the opportunity—as I have had—to go to the Federal Laboratories and some of our test sites. Places relating to the cold war—places where Federal employees are in love with their jobs. They spend long hours with little recognition. Many of these agencies, such as the Corps of Engineers, the Department of Energy, that we fund in this bill I think do a wonderful job. I have very few criticisms of the employees. There is a tiny fraction—as in any organization—that tries to cause trouble to those of us that do the job. As far as I am concerned, they haven’t succeeded.

I throw a bouquet to those entities funded within this bill, and I am very proud to work with them. We expect a lot of these organizations. With very few exceptions, they live up to all of my expectations and the demands we impose on them. I think they serve our Nation with distinction. I think I speak for Senator Domenici when I say we appreciate all the work they do.

My friend from New Mexico has been very patient with me. We are waiting for somebody to come and offer the next amendment. The floor is open. This is a good time to do it. After 5 o’clock, we are happy to work, if the leader wants to work awhile tonight. But because I think we are not coming in until 10:30 tomorrow because we have a special order in the morning, with our dear friend Paul Coverdell, we are not going to be able to start on this bill until 10:30 in the morning. I hope we can get some work done tonight.

I repeat that we are not going to be able to go to the nomination until we complete this bill. There are, I believe, 7 hours on it. All that time probably won’t be used. But then we have the Transportation appropriations bill on which we need to act next week. I hope Members will come and help work through this bill. If there are problems, tell us. We have had a number of Members come to us during the vote—some Democrat—and we have been able to recognize what the problems are, and we have been able in most instances to satisfy the problems.

The PRESIDING OFFICER (Mr. DAYTON): The Senator from New Mexico.

MR. DOMENICI. Mr. President, I thank the Chair.

Let me say to the Republican Senators that it is important you begin to tell us what amendments you have. Obviously, we haven’t been on this bill very long. Pretty soon we are wasting time, when you consider all the time we took off this bill to do other things, we have been on it only a few hours. This is a serious bill with a lot of serious issues.

Once again, we are hopeful that Senators will be able to come up with amendments. If in fact we can’t complete that list this evening, we will do
Mr. REID. Yes. We are getting our Senators to tell us what amendments they want to offer. That is also being done on the other side. Hopefully, within a short time we will have at least a finite list, and hopefully we will be able to work through that. Of course, our very able staff will work through them also. I hope we can have that done pretty soon.

Mr. DOMENICI. Thank you.

Mr. Domenici, let me proceed with some discussion while we wait for the activities and desires of our Senators, both Democrat and Republican.

First, I want to make a comment about the President's energy policy. Then I would like very much to talk about the terms of the diplomacy of the world, prosperity and growth, and how it is related to energy, and how I see that future compared with others.

First, let me talk about the President's energy policy. It is contained in notebook form. For anyone who wants to read it from cover to cover, it is a cover-to-cover approach. It covers almost every issue. They have assessed almost every kind of energy and conservation issue that I believe has been in or around Washington, or anywhere in this Nation. They have begun to list what our energy needs of the future are and to come up with them in a rather basic way to let people challenge what we need in the future. That is all well and good.

But essentially, I would like to make a point that has not been made very often. If you look at the whole policy on energy that the President submitted to us—which was worked on for weeks on end by the Vice President and a distinguished staff, some of whom used to serve us here in the Senate—let's talk just a bit about how much new energy we are going to need out to 2020. They work. The President, let me talk with projectors of growth, and with those who could estimate the electricity needs of our country for certain episodes during the next 20 years.

The conclusion was that the current ratio between energy demand and the gross domestic product might remain constant. Now gross domestic product is what we all reference to measure how much growth we have and how much we grow is measured as an addition to gross domestic product. When it is grew, it's sustainable and is time at a powerful rate, in America we equate that with prosperity, with jobs, with more opportunity, and higher pay for those who are not earning so. I don't think they have estimated the gross domestic product increase for the next 20 years at any exceptional rate, but rather sustained—something like blue chip experts estimate. In doing the thing that we did we would need 77 percent more energy in 2020 than we are producing today.

If we drew a pie chart of a certain size which showed how much we are using today and then drew one around the outside that would add 77 percent. Or you could take 2020 and draw one big pie. Then you would show a piece of it that is current needs and another piece that is future. In any event, the piece that is future needs would be 77 percent more than we are using today.

Most interesting, this national energy policy recommends conservation and efficiency measures that would reduce that increase by over half, resulting in us only needing to produce 29 percent in real energy additions.

There is also the motivation by enhancing and increasing our conservation and our efficiency. And there are numerous examples there on how you would increase efficiency, which equals a lot of research on products that will use less energy in terms of the kinds of things that we have already learned to do and are doing well, we would do more and do better.

Frankly, the President and some of the President's spokesmen may have started off talking about supply. We might have gotten a little bit excited about it. Some people in the country asked: What about conservation?

Well, I am just recalling, when it is all finally done, this is what it is: 77 percent new energy need; only 29 percent of it with new powerplants. They may use natural gas, which seems to be almost the singular source of every new powerplant in the country, and that can't continue forever. We will have the benefits. There's not been many new coal-burning powerplants, even though we are applying clean coal technology and, yes, not a new nuclear plant for two decades or so. But everything is moving in the direction of “let's do it better.” Let's do it more efficiently; let's do it cleaner.

And let's permit America to grow.

That is for starters. I am not changing any of that when I speak of this bill being a very good start in implementing economic measures for those who truly need to build new electric generating capacity at the rate that they can prosper.

What I am suggesting is, this bill moves in the direction of what we might very well call “beyond Kyoto” or what we may call “prosperity beyond Kyoto.”

I will go through some of the very exciting things that are done in this bill that permit us to move in the direction of having a mindset beyond the Kyoto agreement, having a mindset for great prosperity for the underdeveloped countries and the developed countries in terms of being able to use energy for growth and prosperity without concern about global warming.

That is a pretty big vision, a pretty big idea, but frankly, I believe America should do it. I believe our President should take the lead.

I will go through a few things we are doing here and then fit them into a wrap-up as to how that could be America's vision beyond Kyoto.

First, the renewable energy programs in this country have made great strides in terms of innovation, proving concepts, but today it is still a very small part of what the energy production in our country. We ought to do what we did in this bill—increase our focus on renewables, ask that more be done in that area, and that it be part of a great inventory of potential products for this “beyond Kyoto” idea.

In this bill we made a good start. We funded renewable programs to the tune of $335 million. This is not legislation saying we shall have solar and who will do what. It just says we have these programs going, the Department of Energy shall manage $455 million during this year for the various renewable programs we have. That is 16 percent higher than current levels. There is no

For now, I once again ask if you have amendments, let us know through the Cloakroom. We can start listening. I think we only have a few at this point. We have specifically requested amendment on our part.

I do not know about our distinguished friend, the chairman of the subcommittee. Have you begun to accumulate a list? Is it small like our list?

Mr. Domenici, let me proceed with some discussion while we wait for the activities and desires of our Senators, both Democrat and Republican.

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But essentially, I would like to make a point that has not been made very often. If you look at the whole policy on energy that the President submitted to us—which was worked on for weeks on end by the Vice President and a distinguished staff, some of whom used to serve us here in the Senate—let's talk just a bit about how much new energy we are going to need out to 2020. They work. The President, let me talk with projectors of growth, and with those who could estimate the electricity needs of our country for certain episodes during the next 20 years.

The conclusion was that the current ratio between energy demand and the gross domestic product might remain constant. Now gross domestic product is what we all reference to measure how much growth we have and how much we grow is measured as an addition to gross domestic product. When it is grew, it's sustainable and is time at a powerful rate, in America we equate that with prosperity, with jobs, with more opportunity, and higher pay for those who are not earning so. I don't think they have estimated the gross domestic product increase for the next 20 years at any exceptional rate, but rather sustained—something like blue chip experts estimate. In doing the thing that we did we would need 77 percent more energy in 2020 than we are producing today.

If we drew a pie chart of a certain size which showed how much we are using today and then drew one around the outside that would add 77 percent. Or you could take 2020 and draw one big pie. Then you would show a piece of it that is current needs and another piece that is future. In any event, the piece that is future needs would be 77 percent more than we are using today.

Most interesting, this national energy policy recommends conservation and efficiency measures that would reduce that increase by over half, resulting in us only needing to produce 29 percent in real energy additions.

The rest of it would be made up by enhancing and increasing our conservation and our efficiency. And there are numerous examples there on how you would increase efficiency, which equals a lot of research on products that will use less energy in terms of the kinds of things that we have already learned to do and are doing well, we would do more and do better.

Frankly, the President and some of the President's spokesmen may have started off talking about supply. We might have gotten a little bit excited about it. Some people in the country asked: What about conservation?

Well, I am just recalling, when it is all finally done, this is what it is: 77 percent new energy need; only 29 percent of it with new powerplants. They may use natural gas, which seems to be almost the singular source of every new powerplant in the country, and that can't continue forever. We will have the benefits. There's not been many new coal-burning powerplants, even though we are applying clean coal technology and, yes, not a new nuclear plant for two decades or so. But everything is moving in the direction of “let's do it better.” Let's do it more efficiently; let's do it cleaner.

And let's permit America to grow.

That is for starters. I am not changing any of that when I speak of this bill being a very good start in implementing economic measures for those who truly need to build new electric generating capacity at the rate that they can prosper.

What I am suggesting is, this bill moves in the direction of what we might very well call “beyond Kyoto” or what we may call “prosperity beyond Kyoto.”

I will go through some of the very exciting things that are done in this bill that permit us to move in the direction of having a mindset beyond the Kyoto agreement, having a mindset for great prosperity for the underdeveloped countries and the developed countries in terms of being able to use energy for growth and prosperity without concern about global warming.

That is a pretty big vision, a pretty big idea, but frankly, I believe America should do it. I believe our President should take the lead.

I will go through a few things we are doing here and then fit them into a wrap-up as to how that could be America's vision beyond Kyoto.

First, the renewable energy programs in this country have made great strides in terms of innovation, proving concepts, but today it is still a very small part of what the energy production in our country. We ought to do what we did in this bill—increase our focus on renewables, ask that more be done in that area, and that it be part of a great inventory of potential products for this “beyond Kyoto” idea.

In this bill we made a good start. We funded renewable programs to the tune of $335 million. This is not legislation saying we shall have solar and who will do what. It just says we have these programs going, the Department of Energy shall manage $455 million during this year for the various renewable programs we have. That is 16 percent higher than current levels. There is no
question that if we keep the pressure on and have a broader vision, this would be part of what we can do better. We can impose on that kind of technology to do more.

Then there are hydrogen-based technologies. Some think the world ought to be on a hydrocarbon diet for energy in the not too distant future, and some think it could be the basis for future growth projections. I am not quite there yet, but clearly it belongs in the equation. We have added about 30 percent more research in that area.

This might end up decreasing our use of petroleum products in transportation, even though our basic agenda here is not with reference to the automobile and the internal combustion engine and the like. That research is largely being moved ahead in another appropriations bill.

High temperature superconductivity is important because it causes us to waste a lot less electricity as you run the cold current through the lines. Superconductivity would make it such that you would lose very little, if any, a very dramatic step forward. We have increased that about 20 percent, hoping that our great scientists can move into superconductivity and capture some of the waste that now goes into transmitting electricity—an exciting kind of idea.

Geothermal: We know there is a lot of it out there. We have added some research money, although we haven't been doing this for many years; that is, spending money on this system. We think we should try harder and do more.

Wind systems: They are already in existence. Now I am not one who thinks that wind energy can be as big a component of the future as others, just because I have observed what we currently do and I can't visualize doing 10 times as much or 50 times as much. But in any event, we said let's proceed with a little more dispatch.

And then on the side that we would call nuclear: The problem is that when you say nuclear power, people think of driving by a nuclear powerplant. Incidentally, you don't see any smoke come out of the chimneys because there is none. You don't see any pollution because there is none.

The spent fuel rods are inside that machine, and to the extent they are not small, those are probably some source of problem for human beings. But these are gigantic nuclear powerplants. They are almost all of one type. It is amazing how the American people, over the last 15 years, have grown more accustomed to driving by them and living with them, much more so than the French. Seventy-eight percent of France's electricity comes from nuclear power. If you tell people that, they say they don't believe it, or so what? Well, they have a lot less problems with greenhouse gases than we do—sufficiently less that Mr. Chirac can lecture our President about it. That is pretty interesting. If we had 68 or 70 percent of our electricity from nuclear plants, we might be lecturing him. But we don't; we have 21 percent. Germany has around 35 percent, and Japan is building new ones. When we speak, they are building new ones.

The United States is sitting on this problem of not having enough energy so we can maintain our prosperity in the future. We say our universities used to be the pride of the world in terms of creating nuclear physicists and design engineers who worked in this field. All of the universities, except a few, have dramatically reduced this, and they have been criticized about building some of this back into their programs through intramural-type grant programs, where they can do research and learn these particular scientific professions.

So let me suggest another increase in a program to improve the reliability of our 103 existing nuclear powerplants. Let me suggest another thing that is little known. While we had some brownouts in California and some shortages elsewhere, they were minimized because the Nuclear Regulatory Commission and the nuclear powerplant industry in America had been working so well together, and the licensing process and the regulatory staff worked the way they did. After all, in the last decades, that more energy was produced by the nuclear powerplants by upping their capacity in total safety, such that, on average, they increased by the equivalent of 22 new powerplants.

Nobody knows that, but that happened.

So while we are looking around for new sources, these licensed facilities, getting up in years, ratcheted up a bit and produced the energy equivalent of 22 new powerplants, an achievement we have in the United States.

This bill continues with an increase of $7 million for a total of $14 million, in an area which is very exciting. I hope it will be used to join with partners in the world to produce something really important. This is for the next generation of nuclear reactors. Some people call it generation IV reactors. There is a couple of them in the design stage today, and some people have read about them. They are very exciting new technology.

They are going to produce nuclear reactors that are passively safe. That means that their makeup, in terms of the physics, is such that they can't melt down. They will not have a meltdown possibility in the generation IV reactors that will be produced. In addition, they will have much less need for enriched uranium, so there is much less risk. This reduces greatly the proliferation concerns, with reference to the byproduct from the reactors.

This bill also addresses the Nuclear Regulatory Commission—which, incidentally, has been doing an outstanding job. The chairman now is a Democrat appointee. We urged the President to keep him on. He has been so exciting and powerful and such a force in terms of leading that Nuclear Regulatory Commission in the right direction toward the safety and well-being of our people, and maintaining the essence of our nuclear industry. We
hope he is going to remain as the chairman. Now, I don’t think I was saying anything out of school there. I think the chairman knows what is thought of him. I think I may have indicated that he is going to stay on and he wants to stay on.

Remember, just a few years ago we didn’t have any money in these programs that I am talking about. We decided it was best to have an Energy Department for this great United States. But back then, when you walked in the door, what you wanted was no nuclear energy and nothing nuclear in the Department of Energy for the greatest nation on Earth. That is the end to which we had gone in terms of our anti-nuclear-power sentiments. I am not exaggerating: that is a truism.

I was fortunate to be chairman of the subcommittee for 6 years. My good friend was ranking member part of the time—Senator Reid. We started to build a little bit of nuclear energy capacity that not only will not make us longer ashamed. Obviously, they have divisions and departments that are doing nuclear work, so they can’t hide anymore. I think they are very forward-thinking about it.

But just remember, with generation IV we are not talking about the kind of reactors we have now, although they are pretty safe and people now are excited about how clean they are.

The only thing people who oppose nuclear power are saying is: What about the waste that comes out of them? We are doing well when we can produce energy that will no longer cause any global warming, but we have a problem of how do we get rid of the waste. Just think of this. What is the dimension of this problem?

I want to speak of it in physical dimensions. A football field—you have a number in your great State, Mr. President. A football field 12 feet deep is the waste repository of America, that is how big it is. When people scare us to death about it, the truth is, it is just a matter of human beings deciding with technical excellence, engineering expertise, and resources what to do about that. You can either bury it, put it away for an interim period of time, or change it from its current form to another.

In Europe, they are not in a hurry to bury it permanently. They are doing other things with it—interim storage—and they have other technologies to make the end product far less toxic.

This bill says we are not going to fund Yucca Mountain, the permanent repository, as much as we have in the past. Again, we will go to conference, where the House has a higher number to keep it going. We will have that debate in conference, and we do not always win every nickel and every penny. So we are looking forward to going to conference and seeing what can be done.

There are two other technologies that are right there ready to go. One of them is called accelerator transmutation. This is very exciting new technology, proven out beyond the experimental stage, and we have $70 million to continue the work.

It is an accelerator, therefore it is not a nuclear reactor. This module, having a half-life of several thousand years, will become a reactor. We are going to convert Yucca Mountain to an accelerator. If that happens, the material can be transmuted into something far less toxic.

Incidentally, it has two other uses that are very positive that come out of this accelerator process, one of which is to produce all the radioactive isotopes you need for the medical programs of the country. One of these major accelerators would provide all you need.

Plus another use that is rather significant would be to back up our tritium production; it will do that, too. We are currently going to use reactors to do that job. Under Secretary of Energy Bill Richardson we decided to do it down in Tennessee at one of their TVA plants. Then we have the tritium in the program will be produced. This could even be a backup for that reactor in the event we moved ahead.

Some people talk about the estimated costs of transmutation. They use the numbers wrong because the total number over a long period of time, when they tell you how much that is, does not take into consideration how much electricity it produces.

It is just telling you what it costs. That would be like saying the next 10 nuclear powerplants, my gosh, are going to cost $1.5 billion each, but you don’t know how much electricity it produces. You just hold to the $15 billion number.

Let me emphasize I want to stop using the word “waste” and use “spent fuel” because I just gave you an example of how much of the energy is still in the spent fuel. It is 95 percent. It is still energy that can be used. As long as we have cheap uranium, it is obvious we are not going to go full speed ahead to produce byproducts that cost a lot of money. In the process we do know these are some of the approaches to making sure we have options in the future.

To wrap up the vision, the vision is to take these resources and others the administration might ask us for and produce a commitment by the United States of America, led by our President, to put together a 10-, 15-, or 20-year plan that says “beyond Kyoto” and say to the world: Let’s bring together the electricity-producing resources we have been discussing—renewables, biomass, clean coal, nuclear—let’s bring them together and decide in a scheduled approach to begin to produce them so that we can begin to use them in the world without any effect on global warming.

It is very doable. We ought to be excited about it. It means this problem in America might have brought out the best in us. We may be able to tell poor countries with these new reactors that we can put one in every country. They will be very small. They will be modular in size. Perhaps they will be 50 megawatts each instead of 1,000 megawatts. Perhaps they have the characteristics I described here. But let’s set the world under our leadership to bring out of criteria and then develop the science and technology with our businesses and other countries to do it.
I have asked the President to think about this. I call it now “reaching beyond Kyoto,” but it may be “prosperity in abundance for everyone post-Kyoto.” It may be an equal title because if, in fact, we have to restrain the growth substantially because the energy technologies that have been developed thus far will still cause some problems with reference to global warming, then it is an admission that other people cannot become as wealthy as we are; that they cannot have as many things as we have.

We have to reorient the world so how much energy we use, and, yes, we do; we use more than any other country. We use maybe 25 percent. But this little country, America, also produces about 25 percent of the gross domestic product of the world, too.

We have a chance to reach beyond this bill, beyond the discussions about an energy policy in detail with reference to each of these different things on transmission lines, using the public domain for gas and oil, and to set a goal beyond all of that which would say to the United States and the world: You can almost pick your resource because if you do not have any coal, you can use uranium; you can use these new fourth-generation reactors. If you have coal, we are developing the cleanest of coal technology so you can use that, be a nonpolluter and grow.

I think it makes a lot of sense. I am pleased to have thought it through a couple times. The Senator can tell I might have spoken about it one time or another. Yes, I have. It is a pretty good message to be accompanying an energy and water bill if, in fact, this bill is supposed to be doing something about the energy crisis.

We have discussed the approach that there might be something in America that says it is good enough for an America of the future and an America that will be the world in the future. I yield the floor.

Mr. CONRAD. Mr. President, I am pleased to rise today in support of S. 1171, the Energy and Water Development Appropriations Act for fiscal year 2002.

The Senate bill provides $24.96 billion in discretionary budget authority, which will result in new outlays in 2002 of $16.2 billion. When outlays from prior-year budget authority are taken into account, discretionary outlays for the Senate bill total $24.7 billion in 2002. Of that total, $15.2 billion in budget authority and $4.9 billion in outlays is for defense spending. The Senate bill is within its Section 302(b) allocations for budget authority and outlays for both general purpose and defense spending. Further, the committee has met its target without the use of any emergency designations.

I again commend Chairman BYRD and Senator STEVENS for their bipartisan efforts to move this and other appropriations bills quickly to make up for the late start in this year’s appropriations process. I also commend subcommittee Chairman REID and Senator DOMENICI for not only bringing this important measure to the floor within its allocation, but also for providing significant additional resources above the President’s request for both the Department of Energy’s Atomic Energy Defense Programs, which will help dramatically reduce the threat of proliferation of nuclear warheads, materials, and expertise in the former Soviet Union, and for renewable energy projects, which will help ensure an adequate and reliable future of the Nation’s long-term needs for both energy and the environment. I hope all Senators will join me in thanking our able colleagues from Nevada and New Mexico for their vision and good work.

I urge the adoption of the bill.

I ask unanimous consent that a table displaying the Budget Committee scoring of this bill be inserted in the RECORD at this point.

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

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1 The 2002 budget resolution includes a “firewall” in the Senate between defense and nondefense spending. Because the firewall is for budget authority only, the appropriations committees did not provide a separate allocation for defense outlays. This table combines defense and nondefense outlays together as “general purpose” for purposes of comparing the Senate-reported bill to the Senate 302(b) allocation.

Notes.—Details may not add to totals due to rounding. For enforcement purposes, the Budget Committee compares the Senate-reported bill to the Senate 302(b) allocation.

Mr. HUTCHINSON. I would like to thank the Senator for his support of continued funding for a small flood control project for Bono, Arkansas, which is very important to me. I appreciate his efforts to help me secure language in the statement of managers which would fund this project under the section 205 small flood control projects program.

Mr. DOMENICI. I say to my good friend from Arkansas that I understand the situation in Arkansas and the reason for his amendment. I am happy to support report language which will take care of this project in place of the Senate language on your amendment.

Mr. HUTCHINSON. I thank the ranking member and I also thank the honorable chairman, Senator REID, for his help with this vital flood control project.

I withdraw my amendment.

The PRESIDING OFFICER. The Senator from Nevada.

APPOINTMENT OF CONFERENCE—H.R. 333

Mr. REID. I ask unanimous consent, with respect to H.R. 333, the Senate insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate, with no intervening action.

There being no objection, the Presiding Officer appointed Mr. LEAHY, Mr. KENNEDY, Mr. BIDEN, Mr. KOHL, Mr. FEINGOLD, Mr. SCHUMER, Mr. DURBIN, Mr. HATCH, Mr. GRASSLEY, Mr. KYL, Mr. DeWINE, Mr. SESSIONS, and Mr. MCCONNELL conferees on the part of the Senate.

Mr. REID. 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. DASCHLE. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

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

COMMENDING ELIZABETH LETCHWORTH

Mr. DASCHLE. Mr. President, earlier today both the Democratic and Republican Conferences unanimously passed resolutions which I believe ought to be made part of the RECORD at this point during the business of the Senate.

I ask unanimous consent that both resolutions by read at this time.

The PRESIDING OFFICER. Without objection, the clerk will read the Democratic resolution.

The assistant legislative clerk read as follows:

RESOLUTION COMMENDING ELIZABETH LETCHWORTH

Whereas Elizabeth Letchworth has served the Senate for over 25 years serving as both Secretary for the Majority and Secretary for the Minority;

Whereas she has worked for, and with, 6 different Majority Leaders;

Whereas, though she has worked for our colleagues on the other side of the aisle, her assistance, over the years, to members of the Democratic conference has often been appreciated;

Whereas her institutional memory, unflappable demeanor, and good humor will be missed by Senators and staff alike on both sides of the aisle: Now therefore be it

Resolved by the Democratic Conference, That Elizabeth Letchworth is to be commended and thanked for her many years of service to the Senate and wishes her, and her husband Ron, all the best in the years to come.

The PRESIDING OFFICER. The clerk will read the Republican resolution.

The assistant legislative clerk read as follows:

RESOLUTION COMMENDING ELIZABETH LETCHWORTH

Whereas Elizabeth Letchworth has served the Senate for over 25 years serving as both Secretary for the Majority and Secretary for the Minority;

Whereas she has worked for, and with, 6 different Majority Leaders;

Whereas, though she has worked for our colleagues on the other side of the aisle, her assistance, over the years, to members of the Democratic conference has often been appreciated;

Whereas her institutional memory, unflappable demeanor, and good humor will be missed by Senators and staff alike on both sides of the aisle: Now therefore be it

Resolved by the Republican Conference, That Elizabeth Letchworth is to be commended and thanked for her many years of service to the Senate and wishes her, and her husband Ron, all the best in the years to come.

The PRESIDING OFFICER. The clerk will read the Republican resolution.
RESOLUTION RELATING TO THE RETIREMENT OF ELIZABETH LETCHWORTH

Whereas Elizabeth B. Letchworth has served this Conference ably and honorably for over 25 years;

Whereas in 1995 she was elected as the Secretary for the Majority becoming the first woman to hold this post;

Whereas during her service she has assisted all members of this Republican Conference with diligence and professionalism;

Whereas her knowledge of the Senate rules and Institutional history has been a valuable asset to all Members: Now therefore be it

Resolved, That the Republican Conference extends thanks to Elizabeth Letchworth for her service for over 25 years and wishes her all the best in her future endeavors.

THE PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Mr. President, I thank Senator DASCHLE for allowing me to comment on these resolutions. I would like to begin by thanking the Democratic caucus for doing this. This is a very magnanimous gesture and I know it is being done because of appreciation for the job that our floor assistants do, but specifically for the job that has been done over many, many years by Elizabeth Letchworth. She protects the institution. She loves the institution. She works not only with Republicans but, as your resolution says, with Democrats too. Senators on both sides of the aisle, collectively and individually. So we in the Republican Conference appreciate the generosity of your resolution and the fact that you did that.

We did one also. But I must confess, when I made the announcement that she would be leaving after 25 years, there was a very strong round of boos and objections to the whole idea. I said: My colleagues, this is not in the form of a motion; this is an announcement of a decision that has been made by a friend and loved one—to which they stood and applauded, unanimously thanking her for her dedication and professionalism.

I believe later on we will have a resolution on behalf of the entire Senate at a time when we will notify all of our colleagues that it would be appropriate for them to come to the floor and express their appreciation. I know she has a special relationship with Senator BYRD, for instance, because she not only knows his love of the institution but respects his knowledge of the rules and his insistence that we comply with them, sometimes when we are a little bit derelict in doing that. So we will have that opportunity to speak further. At that time, I will go into great detail about her Senate service.

We all know she has been part of the institution for 25 years. It is hard to believe, looking at her, that she has been here 25 years. It is obvious, Senator BYRD, that she was very young when she started working for the Senate—and that in fact is true. She came here, working for then-Senator Hugh Scott from Pennsylvania. I know she did a great job there.

Over the years she has worked in the Cloakroom, worked as a floor assistant, worked for Senator Baker, Senator Dole, and for me when I was majority leader and when I was minority leader. She has served so well as the Secretary for the Majority since 1995 and Secretary for the Minority for the past few weeks. She has just done an outstanding job.

I appreciate her knowledge of the rules, but I also appreciate her determination to make sure we conduct ourselves with diligence and professionalism;

We have been through some tough times while she has been here, both in the majority and the minority. We did the historic impeachment trial for only the second time in history, and I think we did it in a way that was appropriate. We complied with our responsibility under the Constitution. We did it in a reasonable period of time, and we tried to make sure we did it in a respectful way and a fair way for all concerned. That took a lot of effort by our floor assistants, by all of our staff members.

But beyond her knowledge is just the fact that she is a very fine person. I have grown to appreciate her, love her, admire her, and be a member of the family, if you will. I must say she has shown great, great wisdom because in the husband to whom she is married she chose one with a Mississippi background, so she truly became even further a member of the family by making that wise decision.

They have plans for the future that include a little more free time, not quite as many nights here in the Senate Chamber, 6 or 7 or 9 or so on a Thursday night, but also, hopefully, some business investments that will be a great success—just, most importantly, some personal time.

To Elizabeth Letchworth and to Ron I offer my most sincere appreciation personally and the appreciation of the Senate Republican Conference.

Again, my thanks to Senator DASCHLE and our Democratic colleagues for their gesture in their resolution also. I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, I think the distinguished Republican leader has spoken for all of us in expressing his affection and his gratitude for a very special person. This will not be our farewell speech. We will give that later as it accompanies an official Senate resolution that I am certain will be offered on a bipartisan basis by the majority leader and myself with the cosponsorship of others but certainly with the unanimous, enthusiastic support of the entire Senate. But we take the floor this afternoon to acknowledge the decision Elizabeth has made and to call attention to that decision and to express our deep affection for a person to whom we have turned, on both sides of the aisle, on countless occasions.

I have been leader now for about 7 years. I have had the good fortune of working with Elizabeth all 7 of those years. But that is just less than a third of the time she has worked in various capacities in this Chamber. She has served the Senate, not just the Republican conference but the Senate, so admirably, so professionally, so capably that it goes without saying that on occasions such as this it is a heartfelt gesture for us to pass a resolution as we did in the caucus this afternoon. It might say, even though as wasn’t there, there was rousing applause after the resolution passed, with the hope that she might have heard it even though she wasn’t in the room.

Isaac Bassett was the second page to serve in the Senate. He was Daniel Webster’s choice as a page. He served here for a long period of time, over a half a century. Isaac Bassett wrote prodigiously about his experiences and never rose to a level any higher than Assistant Doorkeeper. Isaac Bassett, would talk about his remarkable view of history. To read his notes is to read history in the first person. I think Elizabeth could write notes in the first person about the history she has witnessed as a Senator but I don’t.

She could write history that I am sure would enlighten all of us. I am sure it would be every bit as valuable to future historians and future citizens a hundred years from now as Isaac Bassett’s notes are to me today. Regardless of how much history she writes, she should know that she has helped make history. She has been a witness to history. As she has witnessed history, and as she has made it, she has done it in a way that will make her family and future generations very proud.

Today, rather than saying farewell, we simply say that we admire her, and we are grateful to her not only for what she has done here but will continue to do here in the Senate for the next few weeks and beyond as she serves in other roles and recognizes the importance of being a member of the family that goes beyond the Senate.

I yield the floor.

Mr. STEVENS. Mr. President, I received late word of this little seance and wanted to make sure that I was present to thank our friend who is retiring.

My first father-in-law said that English is the only language in which that word means other than go to bed. I am glad to know that Elizabeth is going on to another career and a beautiful place in the country. And I am happy to wish her very well.

I can remember the various steps of her employment in the Senate. At each level she has excelled and deserved the promotions she has gotten. But above all, Catherine and I will remember the trips that she and her husband have taken with us. She represented the Senate so well as one of our officers.

I have no prepared remarks. I heard the leaders’ very kind remarks. I join
with both leaders in wishing you well and expressing our sadness that you are leaving because you have been really one of the Senate in terms of your services here. We will miss you very much.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, as one who has served with Elizabeth for these long years now, I will have something to say on another day about that service and about my feeling toward her.

KATHARINE GRAHAM

Mr. BYRD. Mr. President, Washington Post publisher Katharine Graham, who passed away today, was a towering figure in the world of journalism.

Her courageous stance during the publication of the Pentagon Papers in 1971 and her steadfast support for her editors and reporters during those trying times, left an unalterable mark upon American journalism and earned her a place in history. With Mrs. Graham at the helm, the Post became one of the leading newspapers in the United States and a veritable American institution.

During her three decades at the helm of the Post she became one of the most influential and admired women in the business world. She was the first woman to head a Fortune 500 company and the first woman to serve as a director of the Associated Press.

Mrs. Graham was an accomplished scribe in her own right. She began her career as a newspaper reporter in San Francisco. After her many successful years in the business end of journalism, she returned to writing and in 1997, at the age of 80, earned a Pulitzer Prize for her autobiography, “Personal History.”

Despite the Post’s success under her leadership, Mrs. Graham remained modest about her own role. In words that could serve as a guide to future publishers, or even to United States Senators, she said:

You inherit something and you do what you can. And so the person who succeeds you inherits something different, and you add to it or you subtract from it . . . . But you never totally control it.

Katharine Graham certainly added “something” to the world of American journalism—a mark of professionalism and integrity that time cannot erase.

Personally, I shall recall her as gracious, elegant, and extremely dignified. She had a bearing one did not forget. She served as an example of journalism at its best for many, many years to come.

Erma and I extend our condolences to Mrs. Graham’s family and her host of friends.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER OF BUSINESS

Mr. DASCHLE. Mr. President, it is nearly 6:30 and we have not had an opportunity to make much progress on the energy and water appropriations bill. I am a little disappointed. I had hoped that we could move at least to the adoption of a few of the amendments that I know are pending. I am hopeful that we can get an agreement on a finite list tomorrow morning. The Republican leader has indicated that might be a possibility tomorrow morning.

We have colleagues on both sides of the aisle who, I know, have amendments, and I hope they can come to the floor as quickly as possible and begin offering them. I will say to those who may feel the need to drag this out that we have to get this work done. If we can’t get it done between now and Thursday night, of course, we will have no recourse but to continue for a reasonably full day on Friday—Friday morning and at least a part of Friday afternoon.

I will also say that these appropriations bills I know are important to the administration, important to the Congress, and I hope nobody makes any definite date for their plans for the August recess. We are going to finish this work, and if we have to bump into the August recess some to complete it, we will do that. Each day we delay now possibly entails additional days at the end of the July work period that we will have to use in order to accommodate the Senate. We will not allow this work to go over until September. We will stay here. That is not meant to be anything other than an observation of the reality of our responsibilities here.

So I just caution everybody not to let these days go by thinking that somehow it is time that we can make up down the road. We are going to have to make it up before we leave for the August break.

So I hope we can make this a productive week. My hope is that we can complete our work on the energy and water bill in a reasonably prudent period of time, and then we will move on to the Graham nomination, which I know is important to the administration, as well as other nominations.

I am hopeful, as well, that we will take up the legislative branch appropriations and Transportation. It would be my expectation that we can make a lot of progress on those bills as well. Senators have to come to the floor to offer amendments. I thank my colleague, the chairman of the Subcommittee on Energy and Water, for his effort in getting us to this point. I know he shares my interest in working for whatever length of time is necessary.

I think I will announce at this point that there will be no more rolloff votes tonight. But it is with the expectation that we will have a finite list of amendments, and we could be in late tomorrow. We will take amendments, and if we have to do it, we will do other work. We will stay in to accommodate the need to get a lot of additional matters done before the end of the week. So there will be no more votes tonight. There will be a number of votes tomorrow.

I yield to the Senator from Nevada.

Mr. REID. I say to the majority leader, I know he has an important statement to give. I wanted to make this observation. These are not Senate bills alone. The President of the United States needs these bills to operate the Government. He needs these bills, as I think if there were a time when we needed to work together, it is now. We have a Democratic majority in the Senate, a Republican majority in the House, and a Republican President. These bills are our joint responsibility. If anybody thinks they are being clever playing the President against George W. Bush, not us. He runs the Government of this country. Would the Senator agree with me in that regard?

Mr. DASCHLE. The Senator is absolutely right. Just today, I have had, I won’t finish tomorrow. I could say countless discussions with my colleagues about other legislative items that ought to come up, and all with good reason.

There are a number of authorizations and legislative issues that deserve the consideration of the Senate. What we have said is that we want to work as the Senator suggests, in a very constructive way, in an effort to try to accommodate the priorities of the administration, as well as the Congress, in achieving what we know we have to in passing these appropriations bills. It is important to get the work done, and it is important to spend the time on the Senate floor to ensure that happens. We have not had a very productive couple of hours, but I am confident that tomorrow will be a much more productive day.

Mr. REID. If I can say one more thing, the majority leader and the minority leader and the two managers of this bill, Senator DOMENICI and I, had a conference earlier in the day. Senator DOMENICI said he thought we could finish the bill tomorrow. He is one of the real pros here, very experienced. He knows this bill as well as anyone. So I take the Senator at his word, as I do everything he tells me.

I say to the majority leader, tomorrow it would seem to me that we not only have to finish this bill but also we have the Graham nomination that we have to finish tomorrow. Because the majority leader told me this previously—and everybody should understand this—we could be working well

July 17, 2001
into tomorrow night, real late, to finish the assigned time we have on the Graham amendment. Is that a fact?

Mr. DASCHLE. The Senator is correct. If I didn’t say it as clearly as I needed to, let me repeat it. We will have a full day tomorrow. We will be, hopefully, completing our work on energy and water and taking up the Graham nomination. My hope is that we can complete both of those tomorrow. We will stay late and make some decision late in the day about how much time we have left and the Post in 1963.

So Senators should be prepared to work late tomorrow in order to accommodate those two very important priorities—again, not just to us but certainly to the administration. The administration has made it very clear that this Graham nomination is important, that it is a right for us to proceed, and the Post in 1963. Thirty years later, the Supreme Court decision overturning that injunction remains one of the most important decisions in first amendment law.

One year later, in June 1972—again with Katharine Graham’s blessing—the Post began its coverage of the Watergate break-in and cover-up. She never wavered in her support of her reporters and their quest for the truth.

Mrs. Graham was modest about her professional achievements. She once said of her paper’s Watergate coverage:

The best we could do was to keep investigating . . . to look everywhere for hard evidence . . . to get the details right . . . and to report accurately what we found.

She made it sound almost like a routine story. It was, of course, anything but routine.

It led eventually to the resignation of a President of the United States, and it earned the Post the Pulitzer Prize for Public Service.

Over the next nearly three decades, there would be many other awards and accolades for Katharine Graham, including a Pulitzer of her own—the Pulitzer Prize for Biography for her 1998 autobiography, “History.”

We are so fortunate that in what would be the last years of her life, she took the time to sit down and write an incredible story that had largely gone untold—her story.

In recalling her sudden ascendancy as president of the Post, she remarked:

What I essentially did was to put one foot in front of the other, shut my eyes and step off the ledge. The surprise was that I landed on my feet.

For those who knew her, for those who loved her, and for those of us who were simply lucky enough to have met her and seen her work, Katharine Graham’s success seems no surprise at all. She was a woman of remarkable insight and remarkable strength.

My deepest sympathies go out to her children, Donald, Lally, William, and Stephen, her many grandchildren, and her great-grandchildren.

Our Nation’s Capital will not be the same without her and neither will American journalism.

I yield the floor and suggest the adjournment of the Senate, as I did earlier this spring, to confirm the efforts of a South Dakotan who is having a direct impact on America’s international interests. Last Thursday evening, I was proud when the Senate confirmed Lori A. Forman, born and raised in Sioux Falls, SD, to be Assistant Administrator of USAID for Asia and the Near East. The Assistant Administrator for Asia and the Near East, ANE, has a tremendous responsibility. Stretching from Morocco in the West to the Philippines in the East, the ANE region is large and diverse and covers a wide range of issues of critical importance to the U.S., including the threat posed by terrorism and the proliferation of weapons of mass destruction.

The region is also home to vital economic interests. As a market for U.S. goods and services, it is second only to Europe and the countries of the region provide 50 percent of the oil consumed in the United States and control vital shipping lanes for the world’s commerce. As the world witnessed with the Asian Financial Crisis in 1997, instability in this region has direct and significant ramifications for global economic interests.

Furthermore, the region poses a development challenge for the Administration. The ANE region accounts for more than two-thirds of the world’s extremely poor. And those poor are succumbing more and more to the threat of infectious disease, especially HIV/AIDS. In India alone, there are 1,500 additional cases of HIV daily.

In such an important region, USAID requires a talented and experienced Assistant Administrator. Our interests there are too vital and the costs of failure too high for us to accept anyone but the finest.

I can think of no better candidate than Lori Forman. She has written extensively on the development challenges in Asia. Her writings are based on years of experience—in both the governmental and non-governmental sectors—as a development practitioner throughout Asia. She knows the region and Washington, ensuring that assistance will get to the people for whom it is intended, not become tied up in bureaucratic wrangling here.

Lori has an additional asset which no one else possesses. She has served her well in her career—and I will continue to serve her well. Though she has been engaged in Asia policy for many of the last 25 years, she is from South Dakota. In South Dakota we pride ourselves on humility, self-reliance and hard work, traits that are valuable, even crucial, to anyone in the development field.

Americans from each and every state are having a positive impact on the
lives of people the world over. I am particularly proud when individuals from South Dakota have done such a fine job. Lori Forman’s efforts make me proud, America stronger and the world better.

TRIBUTE TO COY SHORT

Mr. THURMOND. Mr. President, whether as an officer in the United States Army or as a dedicated public servant at the Social Security Administration, Coy A. Short has served his Nation with honor and integrity. After two and a half decades of devoted service, Coy will retire from the Social Security Administration, and I rise today to pay tribute to a man who has made countless contributions to the welfare of America.

Coy has a rich history of public service which began when he volunteered to serve as an officer in the United States Army. Recognized as a leader with a solid work ethic and uncompromising character, Coy eventually rose to the rank of Captain. After departing the Army, he has continued to support our Armed Forces. He served as Chairman of the Georgia Committee for Employer Support of the Guard and Reserve for over ten years, and continues to work with this committee and other organizations dedicated to assisting our men and women in uniform.

Coy’s selfless involvement with these associations has resulted in his receipt of numerous awards and recognitions, including the Sam Nunn Award, the Oglethorpe Distinguished Service Medal for Outstanding Support of the Georgia Guard, and the Patrick Henry Award from the National Guard Association both in 1997 and 1999. Also, in 1998, he was appointed to the prestigious position of Ambassador for the U.S. Army Reserve.

Though a successful businessman, Coy’s devotion to his country eventually lured him back to the realm of public service. In 1977, he began his career at the Social Security Administration, an agency on which many livelihoods depend.

During Coy’s tenure with the Social Security Administration, his workhorse attitude and proficient managerial skills enabled him to quickly ascend through the ranks. He held several management positions at both district and branch offices throughout the Atlanta region and served as Director of the Office of Congressional, Governmental and External Affairs prior to his selection as Deputy Regional Commissioner. Though a humble man, whose greatest reward is assisting others, he was recognized for his dedication to the Social Security Administration with their highest award, the “Commissioner’s Citation.”

It has been a privilege to know Coy for the last thirty years. He is a true patriot, and I commend him for his service to our Nation. Though the Administration will be losing one of their finest, they will no doubt continue to benefit from his contributions for years to come. I wish him, his wife Judy, and their two children, Greg and Karen, health, happiness, and success in all of their future endeavors.

BUDGET SCOREKEEPING REPORT

Mr. CONRAD. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of S. Con. Res. 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the 2001 budget through July 10, 2001. The estimates of budget authority, outlays, and revenues are consistent with the assumptions of H. Con. Res. 83, the concurrent resolution on the budget for fiscal year 2002, which replaced H. Con. Res. 290, the Concurrent Resolution on the Budget for Fiscal Year 2001.

Since my last report, dated March 27, 2001, the Congress has cleared and the President has signed the following acts that changed budget authority, outlays, or revenues for 2001: an act to provide reimbursement authority to the Secretaries of Agriculture and the Interior from wildland fire management funds (P.L. 107–15), the Fallen Hero Survivor Benefit Fairness Act of 2001 (P.L. 107–15), the Economic Growth and Tax Relief Reconciliation Act of 2001 (P.L. 107–16), and an act to clarify the authority of the Department of Housing and Urban Development with respect to the use of fees during fiscal year 2001 (P.L. 107–18). The effects of these new laws are identified in Table 2.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosures.

TABLE 1.—FISCAL YEAR 2001 SENATE CURRENT LEVEL REPORT, AS OF JULY 10, 2001

<table>
<thead>
<tr>
<th>Budget Authority</th>
<th>Current level</th>
<th>Current level over/under (-) resolution</th>
</tr>
</thead>
<tbody>
<tr>
<td>091:10 on-budget</td>
<td>1,568.4</td>
<td>1,563.6</td>
</tr>
<tr>
<td>093:10 on-budget</td>
<td>1,553.5</td>
<td>1,507.2</td>
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<tr>
<td>Revenues</td>
<td>1,556.7</td>
<td>(2)</td>
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<tr>
<td>Debt Subject to Limit</td>
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<td>5,628.3</td>
</tr>
<tr>
<td>Outlays</td>
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<td>1,507.2</td>
</tr>
<tr>
<td>091:10 off-budget</td>
<td>434.6</td>
<td>434.6</td>
</tr>
<tr>
<td>Social Security Outlays</td>
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<td>434.6</td>
</tr>
<tr>
<td>Social Security Revenues</td>
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<td>121.1</td>
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<tr>
<td>Total, enacted in previous sessions</td>
<td>1,556,315</td>
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<tr>
<td>Total, enacted in previous sessions</td>
<td>1,507,276</td>
<td>1,630,462</td>
</tr>
<tr>
<td>Total Current Level</td>
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<td>1,630,462</td>
</tr>
<tr>
<td>Total Budget Resolution</td>
<td>1,556,721</td>
<td>1,630,462</td>
</tr>
<tr>
<td>Current Level Under Budget Resolution</td>
<td>1,556,721</td>
<td>1,630,462</td>
</tr>
</tbody>
</table>

314,754 n.a.

TABLE 2.—SUPPORTING DETAIL FOR THE FISCAL YEAR 2001 SENATE CURRENT LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES, AS OF JULY 10, 2001

<table>
<thead>
<tr>
<th>Budget authority</th>
<th>Outlays</th>
<th>Revenues</th>
</tr>
</thead>
<tbody>
<tr>
<td>091:10 on-budget</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Debt Subject to Limit</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Outlays</td>
<td>1,515.3</td>
<td>1,507.2</td>
</tr>
<tr>
<td>Current level</td>
<td>1,553.5</td>
<td>1,507.2</td>
</tr>
<tr>
<td>Total, enacted in previous sessions</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total, enacted in previous sessions</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Current Level</td>
<td>1,556,721</td>
<td>1,630,462</td>
</tr>
<tr>
<td>Total Budget Resolution</td>
<td>1,556,721</td>
<td>1,630,462</td>
</tr>
<tr>
<td>Current Level Under Budget Resolution</td>
<td>1,556,721</td>
<td>1,630,462</td>
</tr>
</tbody>
</table>

2 Less than $50 million.

1 Current level is the estimated effect on revenue and direct spending of all legislation that the Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest information from the U.S. Treasury.

*Source: Congressional Budget Office.
LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator Kennedy in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred October 25, 1996 in Trevose, PA. A gay man, James Rebuck, 55, was stabbed to death at his residence after he allegedly made a pass at a man at a bar. David Alan Eliott, 22, and Scott Stocklin were charged with first-degree murder, burglary, criminal conspiracy and possession of deadly instruments.

I believe that Government’s first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Act Enhancement Act of 2001 is a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

VA LEADS THE NATION IN QUALITY OF CARE

Mr. ROCKEFELLER. Mr. President, the Department of Veterans Affairs has made great strides in becoming a leader within the health care profession. Too often, we dwell only on what is going wrong or what else can be done. However, as Chairman of the Committee on Veterans’ Affairs, I would like to instead draw attention to what VA has done to bring a high quality of care to our nation’s veterans. While there is no doubt that VA go even further in this area, we know that they have made great strides in delivering the standard of care veterans deserve.

A few years ago, the Democratic staff of the Committee on Veterans’ Affairs issued a report examining the standards of quality within the VA Health Care system. VA spends considerable effort and resources aimed at providing veterans with the highest quality health care in its hospitals and clinics. Over the years, VA has developed dozens of programs devoted exclusively to quality of care issues, yet public attention continues to be focused on examples of poor care within the health care system.

With nearly 950 sites and growing, VA operates the largest health care system in the United States. Veterans should know that the care at one VA hospital or clinic is at the same high quality level as the care at another VA health care facility. The study concluded that this can only be possible if the VA has a national system of quality which has built-in safeguards sufficient to overcome the inevitable fact that human error will always occur.

The committee is currently working on a follow-up to the original study. As more technological solutions to the problem of quality standardization are implemented, they will need to be examined. Quality of care is a vital issue to which I am very committed, and I will continue to monitor closely as the VA health care system reconfigures itself to accommodate the changing demographics of the population it serves.

Coronary disease care is one area in particular that VA has excelled in with regard to quality of care. With coronary atherosclerosis being the second-most frequent diagnosis among veterans enrolled in VA health care, it is imperative that VA is able to treat this condition with care possible. They have met that challenge, with VA medical facilities now providing the same level of care as non-VA hospitals. The New England Journal of Medicine recently published a report that made this conclusion, based on a study of heart attack patient care within VA. The report also applauded VA’s efforts to improve their overall quality of care.

I ask unanimous consent that an article from The Topeka Capital-Journal, highlighting the report from The New England Journal of Medicine on the study of VA’s quality of care, be printed in the RECORD.

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

VA SYSTEM QUIETLY BECOMING MODEL FOR HEALTH CARE

(By Mathew J. Kelly)

It has long been one of American medicine’s most precious assets and, until recent years, its best-kept secret. On Dec. 27, the New England Journal of Medicine (NEJM) published a report on a study that found the quality of care for heart attack patients is as high in Department of Veterans Affairs medical facilities as in non-VA hospitals.

At first review, that might seem like faint praise—but not for a health care system often singled out to prove its value and justify its existence. And it continues to do so. The accompanying NEJM commentary of a VA doctor nailed it: “Overall, the [VA health care system’s] quest to improve quality must be regarded as a laudable success and itself deserves study for lessons that may have general value.”

The study and associated observations corroborate what we in VA have long been aware of—the exceptional quality of care we provide, and the fact that VA is a model for the health care industry, often outperforming the private sector. VA is delivering that care to its patients and the medical world is noticing and applauding.

For too long VA has methodically and quietly improved the way it delivers health care to a special population, while allowing the public to believe that our hospitals are like those shown in movies such as “Born on the Fourth of July” and “Article 99.” At the time these motion pictures were released, the portrayal was inaccurate, and today, they and the images they conjure are even more distorted.

The Department of Veterans Affairs health care delivery system, once maligned, has overcome the stereotypes, is quieting its critics, and has established itself as a force in health care delivery, research, and medical education, and in such special services as blindness rehabilitation, severe psychological conditions, prosthetics and spinal cord injury. Of the latter, actor Christopher Reeve, now quadriplegic, said, “The whole VA system today is a model which can and must be. And when I look down the list of accomplishments of various centers and how proactive it is, I just rejoice.”

The patient population VA cares for is, on average, significantly older and poorer than the non-veteran population, more likely to have mental illness or substance abuse problems, more likely to have hepatitis C, more likely to have multiple diseases, and less likely to be married and have a social support structure. Despite these challenges, VA health care has transformed itself into what Dr. Donald Berwick, President and CEO of the Institute for Healthcare Improvement, calls “the most impressive work in the country so far on patient safety” and “the benchmark in many areas.”

Even though the veteran population is declining, veterans’ health problems are increasing as they age. More veterans than ever are enrolling for VA health care. In the last five years, VA, which operates the nation’s largest integrated health care organization, has shifted from an inpatient-focused system—we have closed more than half of our acute care beds—to one that is outpatient-based.

To apply for health care, veterans can now fill out and submit an easy-to-follow Internet-based application form, which is automatically electronically mailed to the VA health care facility selected by the veteran. VA employees register the data, print the form and mail it back to the veteran for signature. Veterans can also print out the completed form and mail it to a VA health care facility themselves.

Since 1996, when all honorably discharged veterans became eligible to enroll for VA health care, more than a half-million additional veterans have done so. Why? Every VA patient now has a primary care provider who guides them through the VA health care system, referring them to specialists as needed. VA has implemented pharmacy services that ensure the timely delivery of drugs to patients. VA has instituted
aggressive performance measures that have led to implementation of the best practices of government and private sector health care. On average, VA medical facilities now receive higher accreditation scores than do private sector facilities.

While this transformation was taking place, VA became an industry leader in such areas as electronic health record assessment, the computerization of medical records, telehealth, preventive screenings and immunizations.

There have been no big wars lately, no long lines of troops coming home, no welcoming parades necessary. And as these events and the year-end reports roll by too do memories. It might be only human to become complacent about those who not so long ago left their families, their schools, their jobs, and their dreams of their lives because their country asked. They now need our help, as will future generations of servicemen and women, but plaudits on Veterans Day and Memorial Day are woefully inadequate. Words alone will not mend broken spirits and cannot heal broken bodies. The best possible care—the type VA provides as part of a comprehensive system of benefits—is the most appropriate honor we can bestow on veterans.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, July 16, 2001, the Federal debt stood at $5,709,313,725,685.43, five trillion, seven hundred eighteen billion, eighty-three million.

Two trillion, sixty-nine billion, two hundred ninety-three million.

Ten years ago, July 16, 1991, the Federal debt stood at $3,541,429,000,000, three trillion, five hundred forty-one billion, four hundred thirty million.

Fifteen years ago, July 16, 1986, the Federal debt stood at $2,069,283,000,000, two trillion, sixty-nine billion, four hundred thirty million.

Twenty-five years ago, July 16, 1976, the Federal debt stood at $618,625,000,000, six hundred eighteen billion, six hundred twenty-five million.

PRAISE FOR GEORGIA’S KWAME BROWN ON BEING NBA’S NUMBER ONE DRAFT

Mr. MILLER. Mr. President, every one of us has a life story. Every person is a book, and I would like to tell you about one young man from the state of Georgia who is beginning a new chapter in his.

Kwame Brown has known adversity since the age of 5, when his parents split up for good and he landed in a shelter with his mother and siblings for 10 months. With the help of relatives, Kwame and his family got out of that shelter and things got better—but not by much. Kwame’s mother, Joyce, raised him and his seven siblings by working at the Tyson plant and supporting the family by cleaning hotel rooms. That job ended in 1993 when a back injury and other health problems left Ms. Brown unable to work. Since then, the family has scraped by on a monthly disability check and a few extra dollars from babysitting. Their mode of transportation: a bicycle. Such adversity would break most families, but not Kwame Brown’s family.

With the help of a church mentor, Kwame and his siblings became focused and set goals for themselves. Kwame decided he wanted to be a better student and a better basketball player. Through his faith and many hours of hard work, Kwame improved his grades so much that he landed on the honor roll at Brunswick’s Glynn Academy; and now he has achieved something that no other person in this country ever has.

On June 27, 2001, 19-year-old Kwame became the first high school player ever to be picked as the No. 1 draft in the NBA. This young man who once lived in a neighborhood so poor it was nicknamed “The Bottom” has pulled himself up to the very top.

At 6-feet-11 inches tall and 240 pounds, Kwame averaged 20.1 points, 13.3 rebounds and 5.8 blocked shots as a senior last year at Glynn Academy; he scored 1,539 career points. His exceptional talent has given rise to a number of awards. He was named to McDonald’s All-America Team and USA Today’s All-USA First team. He was also Georgia’s High School Player of the Year.

Kwame Brown is not only a star on the court. His post-high-school life is just as exemplary. Even though he went against his mother’s wishes in post-high-school years, Kwame has been everything his mother and himself could have ever hoped for. He has completed his degree and has been an active supporter of the Idaho Section of the American Nuclear Society.

TRIBUTE TO JAMES LAKE

Mr. CRAIG. Mr. President, I rise today to pay tribute to James Lake upon the occasion of his completion in June of a tenure as the President of the American Nuclear Society for the 2000-2001 year. The American Nuclear Society is an international and educational organization established in 1954. Its membership now has approximately 11,000 engineers, scientists, administrators, and educators representing over 1,600 corporations, educational institutions, and government agencies.

The work of nuclear engineers and scientists is especially relevant to meeting the increasing need of the Nation for electricity. Around the United States, there is a growing public interest in new nuclear plants which offer an economical, safe and environmentally-friendly alternative for the generation of electricity. The development of new nuclear plants is an opportunity to develop and deliver vital nuclear services for the Nation that advances our energy security and economic well-being.

Jim Lake’s service as the President of the American Nuclear Society this year has helped to stimulate the interest in new nuclear generation which has stemmed from energy shortages in California and higher energy prices in many areas. He has crossed the Nation many times this year to meet with nuclear professionals, industry executives, public servants, educators and students to seek their views and ideas on an expanding role for nuclear energy in the Nation. He has represented the professionals of the United States in many forums overseas, and has brought home a broad perspective on nuclear energy’s role in a balanced energy portfolio.

Jim Lake’s career now spans twenty-eight years, of which he has spent the last seventeen at the Idaho National Engineering and Environmental Laboratory in my State. As he completes his tenure as President, he returns to the Laboratory as an Associate Laboratory Director with an enthusiasm for nuclear energy that is fueled by his many experiences of the last year.

Always interested in the development of the professionals at the Laboratory, Jim has been an active and tireless supporter of the Idaho Section of the American Nuclear Society. His leadership of that section resulted in its award for Outstanding Section Management in 1992. The Idaho Section has won many awards in the last ten years and is considered to be truly one of the best in the society.

Jim Lake attended the Georgia Institute of Technology, receiving a Master’s degree in 1972 and a Doctoral degree in 1972. He was elected a Distinguished Engineering Alumnus by Georgia Tech in 1996, and a Fellow of the American Nuclear Society in 1982. He is the author or co-author of thirty technical publications in the disciplines of reactor physics, nuclear engineering and nuclear reactor design. I ask my colleagues to join me in extending our
deep appreciation to Jim Lake for his outstanding service, for his leadership of the American Nuclear Society and in wishing him well in all future endeavors.

IN RECOGNITION OF WILLIAM N. GUERTIN

Mrs. FEINSTEIN. Mr. President, I am pleased today to commend Mr. William N. Guertin for his election as President of the American Association of Medical Society Executives and for his 30 years of service to the medical doctors of Alameda-Contra Costa counties and his many achievements.

Mr. Guertin has been a member of the Alameda-Contra Costa Medical Association, ACCMA, since 1971, and has held two executive offices, Assistant Executive Director and Executive Director. The ACCMA serves over 3,100 doctors and is the second largest medical association in California.

Mr. Guertin supported many California doctors’ efforts to help, cure, and care for people in need of support and medical help. He has worked to create programs that promote public health, quality access to care, and emotional support for the people of California. Mr. Guertin has worked to protect physicians from impositions that would interfere with their ability to interact successfully with their patients. Mr. Guertin created the first doctor-owned professional liability insurance carrier in California, at a time when doctors were not able to obtain the insurance necessary to practice quality medicine.

The practice of medicine has long been a profession of people who devote their time and effort to helping others. Mr. Guertin has worked tirelessly for the past 30 years to facilitate the work of physicians and to enhance the quality of care for the people of Alameda-Contra Costa counties.

For these reasons, I congratulate Mr. Guertin on his new position as President of the American Association of Medical Society Executives. I am confident that Mr. Guertin will succeed in his new position and work to augment the lives of patients and physicians throughout the Nation.

JAN KARSKI—A QUIET HERO

Mr. DeWINE. Mr. President, today I remind my colleagues of a story I read in the New York Times almost exactly one year ago today. It was the July 15, 2000, obituary of a man named Jan Karski. I was absolutely fascinated by this man’s life story and with the first anniversary of his death. I am reminded of the role he played in our modern history. Like few others, he had a unique window view into an appalling and shameful era of history—the Holocaust. Let me explain.

During World War II, Jan Karski brought to the Allied leaders in the West—and at no small risk to his own life—what is believed to be the first eyewitness reports of Hitler’s indescribable acts of hate and cruelty against the Jews. In 1942, Jewish resistance leaders asked Jan, then a 28-year-old courier for the Polish underground, to be their voice to the West—to convey to the Allies an actual eyewitness account of the Jewish genocide in Europe.

He readily accepted this dreadful task, as he knew that someone had to tell the world exactly what was happening. Aided in his mission, Jan was able to relay the ghastly sights and news of the West to Western leaders, his reports were met initially by indifference. While many others eventually would confirm Jan’s horrifying accounts of the Jewish concentration camps and the Warsaw Ghetto in Poland, he was one of the first—and one of very few—to take a stand against these atrocities.

We are discovering that Jan’s voice was not the only warning of the wholesale slaughter of innocent human life. Just this past April, in fact, our law made history with the release of 10,000 pages of previously classified Central Intelligence Agency (CIA) files on 20 key figures from the Nazi party, including Adolf Hitler, Klaus Barbie, Adolf Eichmann, Kurt Waldheim, Heinrich Mueller, and Josef Mengele. And, prior to that last summer, 400,000 pages of other historical documents were released.

A number of those documents contained information that Fritz Kolbe provided to U.S. intelligence authorities in 1943. Mr. Kolbe was a member of the German resistance and worked in the German Foreign Office. Code named “George Wood,” Mr. Kolbe put his life on the line by traveling to Switzerland, carrying highly sensitive information on Nazi activities for delivery to U.S. intelligence agents. A complete set of these documents in an easily searchable format is available for historical review. Also available in its entirety is the U.S. State Department’s complete debrief of Mr. Kolbe from September 1945. This document shows that he did not act alone, but relied on what he called his “Inner Circle,” which consisted of as many as 20 other Germans. The names of these individuals are not well known members of the resistance—they are ordinary people, like Jan Karski.

While the gruesome reality of Nazi Germany eventually became clear to the world and as the Allies acted to end Hitler’s evil regime, Jan’s job—his mission—never really ended. For the rest of his life, he carried with him the sights, the sounds, the smells, and the sadness of the Holocaust. Karski, himself, once said: “This sin will haunt humanity to the end of time. It does haunt me. And, I want it to be so.”

Jan Karski wanted us all to be haunted by the Holocaust. He wanted us never to forget. He devoted his life to ensuring that such inhuman horror would be present forever in our collective conscience, so that we, above all else, will never let this dark chapter in our history ever repeat itself.

While we often think of heroes in terms of epic feats on the battlefield or in the face of great danger, Jan Karski is no less a hero for giving a voice to a silent slaughter. I ask my colleagues to think about that and to take some time to consider the life of Jan Karski and the life of Fritz Kolbe. Their stories, along with others newly discovered, help fill the holes of history, while revisiting a fundamental, troubling question of what the West knew about the Holocaust and what we knew it.

I encourage my colleagues to learn more about Jan and Fritz. Read last year’s New York Times obituary about Jan’s life. Talk about his story with your families. To understand the Holocaust is to remember the lives of Jan Karski and Fritz Kolbe—to remember—“always remember,” as Jan would say—what their sacrifices meant—and still mean—for our world.

TRIBUTE TO DR. MORTIMER ADLER

Mrs. BOXER. Mr. President, today I would like to pay tribute to a great American who passed away on June 28, at the age of 98—an American whose life spanned virtually the entire 20th century and whose work influenced the course of the century.

Dr. Mortimer Jerome Adler, author, educator and philosopher was born in New York City and subsequently moved to California where he lived a great portion of his life.

Mortimer Adler devoted his life to the pursuit of wisdom, understanding, truth and knowledge, and to sharing what he learned with others. After having read John Stuart Mill’s Autobiography at age 14 and learning that Mill had read Plato by the time he was five, he hit the books and never looked back.

A prolific writer, Adler authored well over 50 books, including How to Read a Book; The American Testament; The Common Sense of Politics; Aristotle for Everyone; Ten Philosophical Mistakes; and Art, the Arts and the Great Ideas. It is readily apparent, Mr. President, that his interests were wide ranging and extensive. As editor of the Encyclopedia Britannica, Adler was responsible for revamping the Encyclopedia to its modern form today. He was also editor of the 60 volume set, The Great Books of the Western World and was also instrumental in devising
the Great Books reading program, a book discussion program with chapters throughout the United States in which participants read and discuss classic texts.

A professor at several universities including Columbia University and the University of Chicago, Mortimer Adler was probably the only person in America to receive his PhD before receiving his high school diploma, bachelors or masters degrees. As part of his unending quest to reform the American educational system, he wrote, on behalf of the Paideia Group, The Paideia Proposal, a book explaining how and why the education that the best receive should be the education that all receive.

Known as “Everyone’s Philosopher” or “the Philosopher of the Common Man,” Mortimer Adler spent a lifetime demonstrating that philosophy was not a field only for some, but an endeavor for everyone. As the title of a journal that was published since the early 90’s puts it succinctly, “Philosophy is Everybody’s Business.”

He was also the founder of the Institute for Philosophical Research and was instrumental in founding the Aspen Institute, an organization which engages leaders in business, academia and politics in discussions of perennial ideas using classic texts to facilitate discussion.

Only rarely does a person of Mortimer Adler’s intellect and ability come along. We are fortunate that Pro-Mortimer Adler’s intellect and ability ideas using classic texts to facilitate and politics in discussions of perennial was instrumental in founding the Paideia Group, The Paideia Proposal, a book explaining how and why the education that the best receive should be the education that all receive.

I want to congratulate him on his installation as the pastor of the Christian Love Baptist Church. He is a dynamic gentleman who has turned his life around and has become a leader and role model in the community.

I also want to commend him also on his commitment to the community. I am sure that under his guidance, Christian Love Baptist Church will experience enormous growth and will continue its tradition of being a warm congregation filled with joy and love.

Reverend Christian’s devotion to the community is very well known, and the State of New Jersey is a better place because of his leadership.

Lastly, I am proud to call Reverend Christian a friend. It is an honor for me to bring him to your attention.

TRIBUTE TO LT. GEN. HENRY T. GLISSON


General Glisson was commissioned as a Second Lieutenant of the Quartermaster Corps through the Reserve Officer Training Corps program at North Georgia College, where he earned his bachelor of science degree in Psychology. Thereafter, he received his master’s degree in Education from Pepperdine University of California. His military educational background includes the Quartermaster Officer Basic and Advanced Courses, the Command and General Staff College, and the Army War College.

Selected as a Regular Army Officer in 1967, and detailed to the Infantry for 18 months, his early years included assignment as a Platoon Leader for the 549th Quartermaster Company, Air Delivery, and Aide-de-Camp for the Commanding General of the U.S. Army in Japan. He served in the U.S. Military Assistance Command in Vietnam; and S4, Logistics, and Commander of the Headquarters Company of the 2nd Battalion of the 5th Infantry; Commander of Company C of the 425th Support Battalion; Executive Officer/S3 of the 25th Supply and Transport Battalion.

From 1978 to 1982, he served as the S3 of the Division Support Command; Executive Officer of the 5th Maintenance Battalion; and Commander of the Materiel Management Center of the 1st Infantry Division in Fort Riley, Kansas. His next assignment was Commander of the 67th Maintenance Battalion of the 7th Support Group for the United States Army in Europe. He served as Chief of the Quartermaster Branch of the United States Army Military Personnel Command in Alexandria, Virginia, from 1985 to 1987.

In 1989 he became Commander of Division Support Command for the 4th Infantry Division in Fort Carson, Colorado. He returned to the Pentagon in 1991, serving as the Executive Officer and Special Assistant to the Deputy Chief of Staff for Logistics; and then as Deputy Director of Plans, Programs, and Operations in the Office of the Deputy Chief of Staff for Logistics. In 1993, he was promoted to Brigadier General and has served in four consecutive command assignments: Commander of the Defense Logistics Agency: Command of the U.S. Army Soldier Systems Command of the U.S. Army Materiel Command; and 44th Quartermaster General and Commandant of the U.S. Army Quartermaster Center and School. In 1997, he was promoted to Lieutenant General and began his service as Director of the Defense Logistics Agency in Fort Belvoir, Virginia.

His tireless and selfless dedication to serving his country is represented by the many decorations he has earned, including the Defense Distinguished Service Medal, the Defense Superior Service Medal, the Legion of Merit with Five Oak Leaf Clusters, the Bronze Star with V Device, the Bronze Star, the Purple Heart, the Meritorious Service Medal with Four Oak Leaf Clusters, the Army Commendation Medal, the Air Medal, the Combat Infantryman Badge, the Parachutist Badge, the Parachute Rigger Badge and the Army Staff Identification Badge. In closing, I wish to commend General Glisson for his many years of distinguished service to our Nation, protecting our freedoms of life, liberty and the pursuit of happiness. I wish him and his wife, Sherry, Godspeed in his retirement.

TRIBUTE TO REVEREND CHRISTIAN

Mr. CORZINE. Mr. President, I bring to the attention of my colleagues a great man in the State of New Jersey, Rev. Ron Christian.

Reverend Christian is a man of integrity who is committed to the spiritual, mental, social, civil, and economic well-being of his congregation and of the residents of Essex County.
Chamber to provide even more services individually designed to help members and small businesses with their business needs. The Barelas Job Opportunity Center will serve the neighborhood, community, State and Nation for generations to come.

I applaud the Albuquerque Hispano Chamber of Commerce as it opens its new Barelas Job Opportunity Center. The Chamber has made a great impact on our community and with the new Job Opportunity Center, will continue and further its contribution. We wish them much continued success in the future.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO SIERRA LEONE MESSAGE—FROM THE PRESIDENT—PM 35

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), I transmit hereewith a 6-month periodic report on the national emergency with respect to Sierra Leone that was declared in Executive Order 13194 of January 18, 2001.

GEORGE W. BUSH.


MESSAGES FROM THE HOUSE

At 2:15 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 360. An act to honor Paul D. Coverdell.
S. 560. An act for the relief of Rita Mirembe Revel (a.k.a. Margaret Rita Mirembe).

At 3:14 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 360. An act to honor Paul D. Coverdell.
S. 560. An act for the relief of Rita Mirembe Revel (a.k.a. Margaret Rita Mirembe).

The enrolled bills were signed subsequently by the President pro tempore (Mr. BYRD).

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, July 17, 2001, she had presented to the President of the United States the following enrolled bill:

S. 360. An act to honor Paul D. Coverdell.
S. 560. An act for the relief of Rita Mirembe Revel (a.k.a. Margaret Rita Mirembe).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HOLLINGS for the Committee on Commerce, Science, and Transportation:

*Allan Rutter, of Texas, to be Administrator of the Federal Railroad Administration.
*Eileen G. Engleman, of Indiana, to be Administrator of the Research and Special Programs Administration, Department of Transportation.
*Samuel W. Bodman, of Massachusetts, to be Deputy Secretary of Commerce.
*Wade, F. Horn, of Maryland, to be Assistant Secretary for Family Support, Department of Health and Human Services.
*Kevin Keane, of Wisconsin, to be an Assistant Secretary of Health and Human Services.
*William Henry Lash, III, of Virginia, to be an Assistant Secretary of Commerce.
*Brian Carlisle, of New Jersey, to be an Assistant Secretary of the Treasury.
*Allen Frederick Johnson, of Iowa, to be Chief Agricultural Negotiator, Office of the United States Trade Representative, with the rank of Ambassador.

Nomination was reported with recommendation that it be confirmed subject to instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. BUNNING:

S. 1187. A bill to provide for the management of environmental matters at the Paducah Gaseous Diffusion Plant, Kentucky, through the Assistant Secretary of Energy for Environmental Management, to the Committee on Energy and Natural Resources.

By Mr. ROCKEFELLER (for himself and Mr. CLELAND):

S. 1188. A bill to amend title 38, United States Code, to enhance the authority of the Secretary of Veterans Affairs to recruit and retain qualified nurses for the Veterans Health Administration, and for other purposes; to the Committee on Veterans’ Affairs.

By Mr. HOLLINGS (for himself, Mr. INOUYE, and Mr. DORGAN):

S. 1189. A bill to require the Federal Communications Commission to amend its daily newspaper cross-ownership rules, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION ON CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BIDEN:

S. Res. 135. A resolution honoring Drs. Arvid Carlsson, Paul Greengard, and Eric R. Kandel for being awarded the Nobel Prize in Physiology or Medicine for 2000, and for other purposes; to the Committee on Foreign Relations.

By Mr. HELMS (for himself, Mr. SMITH of Oregon, Mr. LOFT, and Mr. ALLEN):

S. Con. Res. 80. A concurrent resolution expressing the sense of the Congress that the continued participation of the Russian Federation in meetings of the Group of Eight countries must be conditioned on the Russian Federation’s voluntary acceptance of and adherence to the norms and standards of democracy; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS, MONDAY, JULY 16, 2001

S. 29

At the request of Mr. BOND, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 29.
a bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals.

S. 124

At the request of Mr. Brownback, the name of the Senator from Mississippi (Mr. Cochran) was added as a cosponsor of S. 124, a bill to exempt agreements relating to voluntary guidelines governing telecast material, movies, video games, Internet content, and music lyrics from the applicability of the antitrust laws, and for other purposes.

S. 127

At the request of Mr. McCain, the name of the Senator from Nevada (Mr. Reid) was added as a cosponsor of S. 127, a bill to give American companies, American workers, and American ports the opportunity to compete in the United States cruise market.

S. 130

At the request of Mr. Frist, the names of the Senator from Arkansas (Mrs. Lincoln), the Senator from Kentucky (Mr. Bunning), and the Senator from Iowa (Mr. Grassley) were added as cosponsors of S. 130, a bill to facilitate famine relief efforts and a comprehensive solution to the war in Sudan.

S. 238

At the request of Mrs. Lincoln, the name of the Senator from Massachusetts (Mr. Kerry) was added as a cosponsor of S. 258, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of annual screening pap smear and screening pelvic exams.

S. 388

At the request of Mr. Murkowski, the names of the Senator from Virginia (Mr. Allen) and the Senator from North Carolina (Mr. Helsm) were added as cosponsors of S. 386, a bill to protect the energy and security of the United States and decrease America’s dependency on foreign oil sources to 50% by the year 2011 by enhancing the use of renewable energy resources conserving energy resources, improving energy efficiencies, and increasing domestic energy supplies; improve environmental quality by reducing emissions of air pollutants and greenhouse gases; mitigate the effect of increases in energy prices on the American consumer, including the poor and the elderly; and for other purposes.

S. 389

At the request of Mr. Murkowski, the names of the Senator from Virginia (Mr. Allen), the Senator from Mississippi (Mr. Cochran), and the Senator from North Carolina (Mr. Helsm) were added as cosponsors of S. 389, a bill to protect the energy and security of the United States and decrease America’s dependency on foreign oil sources to 50% by the year 2011 by enhancing the use of renewable energy resources conserving energy resources, improving energy efficiencies, and increasing domestic energy supplies; improve environmental quality by reducing emissions of air pollutants and greenhouse gases; mitigate the effect of increases in energy prices on the American consumer, including the poor and the elderly; and for other purposes.

S. 454

At the request of Mr. Bingaman, the name of the Senator from Nevada (Mr. Ensign) was added as a cosponsor of S. 454, a bill to provide permanent funding for the Bureau of Land Management Payment in Lieu of Taxes program and for other purposes.

S. 472

At the request of Mr. Domenici, the name of the Senator from Carolina (Mr. Helms) was added as a cosponsor of S. 472, a bill to ensure that nuclear energy continues to contribute to the supply of electricity in the United States.

S. 486

At the request of Mr. Leahy, the name of the Senator from Illinois (Mr. Durbin) was added as a cosponsor of S. 486, a bill to reduce the risk that innocent persons may be executed, and for other purposes.

S. 543

At the request of Mr. Wellstone, the name of the Senator from Carolina (Mr. Hollings) was added as a cosponsor 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. Domenici, the name of the Senator from Maine (Ms. Collins) was added as a cosponsor of S. 543, supra.

S. 550

At the request of Mr. Daschle, the name of the Senator from Alabama (Mr. Sessions) was added as a cosponsor of S. 550, a bill to amend part E of title IV of the Social Security Act to provide equitable access for foster care and adoption services for Indian children in tribal areas.

S. 661

At the request of Mr. Thompson, the names of the Senator from Kansas (Mr. Brownback) and the Senator from Tennessee (Mr. Frist) were added as cosponsors of S. 661, a bill to amend the Internal Revenue Code of 1986 to repeal the 4.3-cent motor fuel excise taxes on railroads and inland waterway transportation which remain in the general fund of the Treasury.

S. 701

At the request of Mr. Baucus, the name of the Senator from South Dakota (Mr. Johnson) was added as a cosponsor of S. 701, a bill to amend the Internal Revenue Code of 1986 to provide special rules for the charitable deduction for conservation contributions of land by eligible farmers and ranchers, and for other purposes.

S. 778

At the request of Mr. Hagel, the name of the Senator from Arkansas (Mrs. Lincoln) was added as a cosponsor of S. 778, a bill to expand the class of beneficiaries who may apply for adjustment of status under section 245(i) of the Immigration and Nationality Act by extending the deadline for classification petition and labor certification filings.

S. 781

At the request of Mr. Akaka, the name of the Senator from Alabama (Mr. Sessions) was added as a cosponsor of S. 781, a bill to amend section 3702 of title 38, United States Code, to extend the authority for housing loans for members of the Selected Reserve.

S. 808

At the request of Mr. Baucus, the name of the Senator from Indiana (Mr. Bayh) was added as a cosponsor of S. 808, a bill to amend the Internal Revenue Code of 1986 to repeal the occupational taxes relating to distilled spirits, wine, and beer.

S. 829

At the request of Mr. Brownback, the names of the Senator from Rhode Island (Mr. Chafee), the Senator from Minnesota (Mr. Wellstone), and the Senator from Maryland (Mr. Sarbanes) were added as cosponsors of S. 829, a bill to establish the National Museum of African American History and Culture within the Smithsonian Institution.

S. 847

At the request of Mr. Dayton, the name of the Senator from California (Mrs. Boxer) was added as a cosponsor of S. 847, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 860

At the request of Mr. Grassley, the name of the Senator from Illinois (Mr. Durbin) was added as a cosponsor of S. 860, a bill to amend the Internal Revenue Code of 1986 to provide for the treatment of certain expenses of rural letter carriers.

S. 871

At the request of Mr. Cleland, the name of the Senator from California (Mrs. Boxer) was added as a cosponsor of S. 871, a bill to amend chapter 83 of title 5, United States Code, to provide for the computation of annuities for air traffic controllers in a similar manner as the computation of annuities for law enforcement officers and firefighters.

S. 913

At the request of Ms. Snowe, the names of the Senator from South Carolina (Mr. Hollings) and the Senator from Utah (Mr. Bennett) were added as cosponsors of S. 913, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of all oral anticancer drugs.

S. 937

At the request of Mr. Cleland, the name of the Senator from Florida (Mr. Graham) was added as a cosponsor of S. 937, a bill to amend title 38, United States Code, to permit the transfer of entitlement to educational assistance.
under the Montgomery GI Bill by members of the Armed Forces, and for other purposes.

S. 942

At the request of Mr. GRAHAM, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 942, a bill to authorize the supplemental grant for population increases in certain states under the temporary assistance to needy families program for fiscal year 2002.

S. 1005

At the request of Mr. JEFFORDS, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1005, a bill to provide assistance to mobilize and support United States communities in carrying out community-based youth development programs that assure that all youth have the opportunity to participate in programs that build the competencies and character development needed to fully prepare the youth to become adults and effective citizens, and for other purposes.

S. RES. 71

At the request of Mr. HARKIN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. Res. 71, a resolution expressing the sense of the Senate regarding the need to preserve six day mail delivery.

S. RES. 119

At the request of Mr. BAYH, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. Res. 119, a resolution combating the Global AIDS pandemic.

S. RES. 121

At the request of Mr. KERRY, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. Res. 121, a resolution expressing the sense of the Senate regarding the policy of the United States at the 53rd Annual Meeting of the International Whaling Commission.

S. CON. RES. 3

At the request of Mr. FEINGOLD, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. Con. Res. 3, a concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of the U.S.S. Wisconsin and all those who served aboard her.

S. CON. RES. 45

At the request of Mr. FITZGERALD, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. Con. Res. 45, a concurrent resolution expressing the sense of Congress that the Humane Methods of Slaughter Act of 1958 should be fully enforced so as to prevent needless suffering of animals.

S. CON. RES. 53

At the request of Mr. HAGEL, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Iowa (Mr. GRASSLEY), and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. Con. Res. 53, concurrent resolution encouraging the development of strategies to reduce hunger and poverty, and to promote free market economies and democratic institutions, in sub-Saharan Africa.

S. CON. RES. 59

At the request of Mr. HUTCHINSON, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. Con. Res. 59, a concurrent resolution expressing the sense of Congress that there should be established a National Community Health Center Week to raise awareness of health services provided by community health centers, public housing, and homeless health centers.

ADDITIONAL COSPONSORS, TUESDAY, JULY 17, 2001

S. 29

At the request of Mr. BOND, the name of the Senator from New Hampshire (Mr. GINGRICH) was added as a cosponsor of S. 29, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals.

S. 171

At the request of Mr. KERRY, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 171, a bill to amend the Small Business Act with respect to the microloan program, and for other purposes.

S. 177

At the request of Mr. AKAKA, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 177, a bill to amend the provisions of title 39, United States Code, relating to the manner in which pay policies and schedules and fringe benefit programs for postmasters are established.

S. 358

At the request of Mr. BREAUx, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 358, a bill to amend the Social Security Act to establish a Medicare Prescription Drug and Supplemental Benefit Program and for other purposes.

S. 400

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 400, a bill to lift the trade embargo on Cuba, and for other purposes.

S. 401

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 401, a bill to normalize trade relations with Cuba, and for other purposes.

S. 402

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 402, a bill to make an exception to the United States embargo on trade with Cuba for the export of agricultural commodities, medicines, medical supplies, medical instruments, or medical equipment, and for other purposes.

S. 457

At the request of Ms. SNOWE, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 457, a bill to amend title 38, United States Code, to establish a presumption of service-connection for certain veterans with Hepatitis C, and for other purposes.

S. 486

At the request of Mr. LEAHY, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 486, a bill to reduce the risk that innocent persons may be executed, and for other purposes.

S. 540

At the request of Mr. DEWEINE, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 540, a bill to amend the Internal Revenue Code of 1986 to allow as a deduction in determining adjusted gross income the deduction for expenses in connection with services as a member of a reserve component of the Armed Forces of the United States, to allow employers a credit against income tax with respect to employees who participate in the military reserve components, and to allow a comparable credit for participating reserve component self-employed individuals, and for other purposes.

S. 543

At the request of Mr. WELLSTONE, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor 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.

S. 572

At the request of Mr. CHAFEE, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 572, a bill to amend title XIX of the Social Security Act to extend modifications of the benefits provided under the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000.

S. 611

At the request of Ms. MIKULSKI, the names of the Senator from South Carolina (Mr. HOLLINGS), the Senator from Washington (Ms. CANTWELL), and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 611, a bill to amend title II of the Social Security Act to provide that the reduction in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 658

At the request of Mr. LEAHY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 658, a bill to amend title 32, United States Code, to authorize units of the National Guard to conduct small arms competitions and athletic competitions, and for other purposes.
At the request of Mr. AKAKA, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 668, a bill to amend the Animal Welfare Act to ensure that all dogs and cats used by research facilities are obtained legally.

S. 723

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 723, a bill to amend the Public Health Service Act to provide for human embryonic stem cell generation and research.

S. 760

At the request of Mr. HATCH, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 760, a bill to amend the Internal Revenue Code of 1986 to encourage and accelerate the nationwide production, retail sale, and consumer use of new motor vehicles that are powered by fuel cell technology, hybrid technology, battery electric technology, alternative fuels, or other advanced motor vehicle technologies, and for other purposes.

S. 830

At the request of Mr. CHAFFEE, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 830, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 847

At the request of Mr. DAYTON, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 847, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 866

At the request of Mr. REID, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 866, a bill to amend the Public Health Service Act to provide for a national media campaign to reduce and prevent underage drinking in the United States.

S. 882

At the request of Ms. MIKULSKI, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 882, a bill to amend title II of the Social Security Act to provide that monthly insurance benefits under shall be paid for the month in which the recipient dies, subject to a reduction of 50 percent if the recipient dies during the first 15 days of such month, and for other purposes.

At the request of Mr. HUTCHINSON, the names of the Senator from New York (Mrs. CLINTON) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 885, a bill to amend title XVIII of the Social Security Act to provide for national standardized payment amounts for inpatient hospital services furnished under the medicare program.

S. 887

At the request of Mr. WELLSSTONE, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 887, a bill to amend the Torture Victims Relief Act of 1998 to authorize appropriations to provide assistance for domestic centers and programs for the treatment of victims of torture.

S. 890

At the request of Mr. MCCAIN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 890, a bill to require criminal background checks on all firearms transactions occurring at events that provide a venue for the sale, offer for sale, transfer, or exchange of firearms, and to provide additional resources for gun crime enforcement.

S. 940

At the request of Mr. DODD, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 940, a bill to leave no child behind.

S. 1017

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1017, a bill to provide the people of Cuba with access to food and medicines from the United States, to ease restrictions on travel to Cuba, to provide scholarships for certain Cuban nationals, and for other purposes.

At the request of Mr. DODD, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1017, supra.

S. 1104

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1104, a bill to establish objectives for negotiating, and procedures for, implementing certain trade agreements.

S. 1116

At the request of Mr. INOUYE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1116, a bill to amend the Foreign Assistance Act of 1961 to provide increased foreign assistance for tuberculosis prevention, treatment, and control.

S. 1119

At the request of Mr. LEAHY, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1119, a bill to require the Secretary of Defense to carry out a study of the extent to the coverage of members of the Selected Reserve of the Ready Reserve of the Armed Forces under health benefits plans and to submit a report on the study of Congress, and for other purposes.

S. 1152

At the request of Mr. DURBIN, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 1152, a bill to ensure that the business of the Federal Government is conducted in the public interest and in a manner that provides for public accountability, efficient delivery of services, reasonable cost savings, and prevention of unwarranted Government expenses, and for other purposes.

S. CON. RES. 53

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. Con. Res. 53, concurrent resolution encouraging the development of strategies to reduce hunger and poverty, and to promote free market economies and democratic institutions, in sub-Saharan Africa.

S. 1079

At the request of Mr. HAGEL, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. Con. Res. 53, supra.
STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CLELAND (for himself and Mr. MILLER):

S. 1184. A bill to designate the facility of the United States Postal Service located at 2833 Candler Road in Decatur, Georgia, as the ‘‘Earl T. Shinhoster Post Office’’; to the Committee on Governmental Affairs.

Mr. CLELAND. Mr. President, I rise today to recognize Mr. Earl Shinhoster for his distinguished career of service to the United States of America and the cause of civil and human rights. In tribute to Mr. Shinhoster I hereby introduce legislation to designate the facility of the United States Postal Service located at 2833 Candler Road in Decatur, Georgia, as the ‘‘Earl T. Shinhoster Post Office.’’ Before his tragic death on June 12, 2000, he had been an active member of the National Association for the Advancement of Colored People, NAACP, for more than 30 years as both a volunteer and staff member, most recently as Acting Executive Director and Chief Executive Officer of its National Board of Directors in 1996, and Southeast Regional Director from 1978–1994.

In May 1998, Mr. Shinhoster was Chaired the Somalia Delegation to the National Summit on Africa and he was the Field Director for the National Democratic Institute in Accra, Ghana from 1996 to 1997 where he observed and monitored the 1996 Presidential and Parliamentary elections. He also monitored and observed the electoral process in South Africa and Nigeria. He was active on both the State and local level serving in the administration of Georgia Governor George Busbee from 1975 to 1978 as Director of the Governor’s Office of Human Affairs. In 1998, Mr. Shinhoster served as Coordinator of Voter Education for the State’s Election Division.

Mr. Shinhoster earned his Bachelor of Arts degree in political science from Morehouse College in Atlanta, GA in 1972 before pursuing legal studies at Cleveland State University College of Law in Cleveland, OH. The particular Post Office to be named after him is the same Post Office in South DeKalb where he retrieved his mail and is located in the same community where his family and friends still reside today. I, along with Senator MILLER, urge my colleagues to support this legislation and recognize Mr. Shinhoster’s long and distinguished career as a public servant promoting civil and human rights in Georgia, the United States, and around the world. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1184

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 ‘‘Seniors Prescription Insurance Coverage Equity Act of 2001.’’

(b) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. SPICE drug benefit program.

PART D—SPICE DRUG BENEFIT PROGRAM

Sec. 1860A. Establishment of SPICE drug benefit program.

Sec. 1860B. SPICE prescription drug coverage.

Sec. 1860C. Approval for entities offering SPICE prescription drug coverage.

Sec. 1860D. Prepayment of amounts for SPICE prescription drug coverage.

Sec. 1860E. Financial assistance to obtain SPICE prescription drug coverage.

Sec. 1860F. Employer incentive program for employment-based retiree drug coverage.

Sec. 1860G. SPICE Board.

Sec. 1860H. Prescription Drug Account in the Federal Supplementary Medical Insurance Trust Fund.

Sec. 3. SPICE prescription drug coverage under Medicare+Choice plans.

Sec. 4. Medigap revisions and transition provisions.

Sec. 5. Provision of information on SPICE drug benefit program under health insurance, dental, and assistance grants.

Sec. 6. Personal Digital Access Technology Demonstration Project.

S. 3564. A bill to amend title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by redesignating part D as part E and by inserting after part C the following new part:

PART E—SPICE DRUG BENEFIT PROGRAM

SEC. 1860A. (a) Access to SPICE Prescription Drug Coverage.—

(1) In general.—Beginning in 2003, the Secretary of Health and Human Services (establishment 1860M) shall provide for a SPICE drug benefit program under which all eligible medicare beneficiaries who voluntarily enroll under this part shall be entitled to obtain SPICE prescription drug coverage (meeting the terms and conditions under this part) as follows:

(A) Medicare+Choice plan.—If the eligible medicare beneficiary is eligible to enroll in a Medicare+Choice plan, the beneficiary may enroll in the plan and obtain SPICE prescription drug coverage (as defined in section 1860B(a)) through such plan.

(B) Medicare supplemental policy.—If the eligible medicare beneficiary is not enrolled in a Medicare+Choice plan but is enrolled in a medicare supplemental policy, the beneficiary may:

(i) obtain SPICE prescription drug coverage through such policy; or

(ii) waive basic coverage (as defined in section 1860B(b)) pursuant to section 1860B(c) and obtain financial assistance pursuant to section 1860K(c) for stop-loss coverage (as defined in section 1860B(c)) provided under such policy.

(2) Medicare drug plan for noncompetitive areas.—If the eligible medicare beneficiary is not enrolled in a Medicare+Choice plan, a medicare supplemental policy, or a Medicare Drug Plan for Noncompetitive Areas, the beneficiary may obtain basic coverage (including financial assistance for such coverage under section 1860K(b) and access to negotiated prices under section 1860K(b)) through enrollment in a plan offered by a private entity with a contract to offer such plan under section 1860B(c).

(3) Voluntary nature of program.—Nothing in this part shall be construed as requiring an eligible medicare beneficiary to enroll in the program established under this part.

(4) Administration of benefits.—In providing SPICE prescription drug coverage to an eligible medicare beneficiary under this part, an entity offering a medicare supplemental policy, a Medicare+Choice plan, a Medicare Drug Plan for Noncompetitive Areas, or a basic coverage plan under section 1860F may:

(A) directly administer the benefits under such coverage; or

(B) contract with an entity that meets the applicable requirements under this part to administer such benefits.

(5) Access to alternative prescription drug coverage.—In the case of an eligible medicare beneficiary who has creditable prescription drug coverage (as defined in section 1860B(b)(4)) under a policy or plan, such beneficiary—

(i) may continue to receive such coverage under such policy or plan and not enroll under this part; and

(ii) may continue to receive such coverage under such policy or plan and enroll under this part; and

(iii) may stop participating in such policy or plan and enroll under this part.
part and obtain SPICE prescription drug coverage without any penalty if such policy or plan terminated, ceased to provide, or substantially reduced the value of the prescription drug coverage under such policy or plan.

"(c) FINANCIAL ASSISTANCE.—

"(1) UNDER SPICE DRUG BENEFIT PROGRAM.—

Under the SPICE drug benefit program, the SPICE Board shall provide financial assistance, with such assistance varying depending upon the income of such beneficiary, for any eligible medicare beneficiary enrolled under this program voluntarily obtains—

"(A) basic coverage (pursuant to subsection (b) of section 1860K); or

"(B) stop-loss coverage (pursuant to subsection (c) of section 1860K).

"(2) ASSISTANCE TO GROUP HEALTH PLANS THAT PROVIDE PRESCRIPTION DRUG COVERAGE TO ELIGIBLE MEDICARE BENEFICIARIES.—Pursuant to the Employer Incentive Program established under section 1860L, the SPICE Board shall make payments to employers and other sponsors of employment-based health care coverage to encourage such employers and sponsors to provide adequate prescription drug coverage to retired individuals.

"(d) ELIGIBLE MEDICARE BENEFICIARY DEFINED.—For purposes of this part, the term 'eligible medicare beneficiary' means an individual who is entitled to benefits under part A and enrolled under part B.

"(e) FINANCING.—The costs of providing benefits under this part shall be payable from the SPICE Prescription Drug Account (as established under section 1860N) within the Federal Supplementary Medical Insurance Trust Fund under section 1841.

SPICE PRESCRIPTION DRUG COVERAGE

"SPICE PRESCRIPTION DRUG COVERAGE.—For purposes of this part, the term 'SPICE prescription drug coverage' means coverage consisting of the following:

"(1) BASIC COVERAGE.—Basic coverage (as defined in subsection (b)) and access to negotiated prices under subsection (d), except as waived pursuant to section 1860C(a)(3).

"(2) STOP-LOSS COVERAGE.—Stop-loss coverage (as defined in subsection (c)).

"(b) BASIC COVERAGE.—For purposes of this part, the term 'basic coverage' means coverage that meets the following requirements:

"(1) Deductible.—The coverage has an annual deductible.

"(2) Coinsurance.—The coverage has coinsurance (for the cost of a covered outpatient drug) that is not a multiple of $5 and that does not exceed 25 percent of the cost of such drug.

"(3) Initial coverage limit.—

"(A) IN GENERAL.—The coverage has an initial coverage limit for covered outpatient drugs in a year that is reached when the eligible medicare beneficiary has incurred the applicable amount of out-of-pocket expenses in the year.

"(B) APPLICABLE AMOUNT DEFINED.—For purposes of subparagraph (A), the term 'aplicable amount' means—

"(i) for 2003, $3,000; or

"(ii) for any subsequent year, the amount specified in this subparagraph for the previous year, increased by the annual percentage increase described in paragraph (4) for the year involved.

Any amount determined under clause (ii) that is not a multiple of $25 shall be rounded to the nearest multiple of $25.

"(4) APPLICATION.—In applying paragraph (1)—

"(i) incurred out-of-pocket expenses shall only include those incurred for the annual deductible (described in paragraph (1)) and coinsurance (described in paragraph (2)); and

"(ii) such expenses shall be treated as incurred without regard to whether the individual or another person, including a State program or other third-party coverage, has paid for such expenses.

"(4) ANNUAL PERCENTAGE INCREASE.—For purposes of this part, the annual percentage increase specified in this paragraph for a year is equal to the annual percentage increase in average per capita aggregate expenditures for benefits under this title, as determined by the Secretary for the 12-month period ending in July of the previous year.

"(c) STOP-LOSS COVERAGE.—For purposes of this part, the term 'stop-loss coverage' means coverage of covered outpatient drugs in a year without any coinsurance after the eligible medicare beneficiary has reached the annual deductible (described in subsection (b)(3)) for the year.

"(d) ACCESS TO NEGOTIATED PRICES.—Under SPICE prescription drug coverage offered under subsection (b)(3), each entity offering such coverage shall negotiate and offer prices (including applicable discounts) used for payment for covered outpatient drugs, regardless of the fact that no benefits may be payable with respect to such drugs because of the application of the annual deductible.

"(e) COVERED OUTPATIENT DRUGS DEFINED.—

"(1) IN GENERAL.—Except as provided in this subsection, for purposes of this part, the term 'covered outpatient drug' means—

"(A) a drug that may be dispensed only upon prescription and that is described in subparagraph (A)(i) or (A)(ii) of section 1860H(a),

"(B) a biological product described in clauses (i) through (iii) of paragraph (B) of such section or insulin described in subparagraph (C)(i) of section 1860H(a).

"(2) EXCLUSIONS.—

"(A) IN GENERAL.—Such term does not include drugs or classes of drugs, or their medical uses, which may be excluded from coverage under section 1862(a)(7)(D), other than subparagraph (E) thereof (relating to smoking cessation agents) and except to the extent otherwise specifically provided by law:

"(i) vitamin or mineral supplements.

"(B) AVOIDANCE OF DUPLICATE COVERAGE.—

A drug prescribed for an individual that would otherwise be a covered outpatient drug under this part shall not be considered if such payment is not available because benefits under part A or B have been exhausted.

"(C) APPLICATION.—A drug prescribed for an individual that would otherwise be a covered outpatient drug under this part shall not be considered if such payment is not available because benefits under part A or B have been exhausted.

"(3) APPLICATION OF FORMULARY RESTRICTIONS.—A drug prescribed for an individual that would otherwise be a covered outpatient drug under this part shall not be considered if such payment is not available because benefits under part A or B have been exhausted.

"(4) APPLICATION OF ADDITIONAL REQUIREMENTS.—The process established under subsection (a)(1) shall be similar to the process for enrollment in part B under section 1837.

"(5) ELIGIBILITY.—For purposes of this part, the term 'eligibility' means enrollment under this part rather than deeming the eligibility to be so enrolled if certain requirements are met.

"(2) REQUIREMENT OF ENROLLMENT.—An eligible medicare beneficiary must enroll under this program in order to be eligible to receive SPICE prescription drug coverage, including financial assistance for basic and stop-loss coverage under section 1860k.

"(8) WAIVER OF BASIC COVERAGE FOR MEDIQAP ENROLLEES.—

"(A) IN GENERAL.—The process established under paragraph (1) shall permit a beneficiary enrolled under this program to—

"(i) waive the basic coverage available under this part; and

"(ii) rescind such waiver in order to obtain such coverage.

"(B) RULES.—If a beneficiary waives basic coverage pursuant to paragraph (A)(ii), the following rules shall apply:

"(i) Such waiver shall not affect the stop-loss coverage that the beneficiary receives under the medicare supplemental policy, including the entitlement to financial assistance under section 1860k(c) for such coverage.

"(ii) The beneficiary shall not be liable for the basic monthly premium under section 1860h(a).

"(9) THE BENEFICIARY SHALL NOT RECEIVE BASIC COVERAGE BUT SHALL BE ENTITLED TO NEGOTIATED PRICES FOR COVERED OUTPATIENT DRUGS AS IF THE BENEFICIARY HAD NOT WAIVED SUCH COVERAGE.

"(10) IF THE BENEFICIARY SUBSEQUENTLY RESCINDS SUCH WAIVER PURSUANT TO SUBPARAGRAPH (A)(II), THE BENEFICIARY SHALL BE SUBJECT TO THE LAST ENROLLMENT PERIOD PREFERRED BY THE SPICE PRESCRIPTION DRUG COVERAGE ANY COVERED OUTPATIENT DRUG—

"(A) For which payment would not be made if section 1860(a) applied to part D; or

"(B) Which are not prescribed in accordance with the policy or plan or this part.

Such exclusions are determinations subject to reconsideration and appeal pursuant to section 1860c(e).

"ENROLLMENT UNDER SPICE DRUG BENEFIT PROGRAM

"SEC. 1860C. (a) ESTABLISHMENT OF PROCEEDS—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The SPICE Board, in consultation with the Secretary, the National Association of Insurance Commissioners, issuers of medicare supplemental policies, and Medicare+Choice organizations, shall establish a process through which an eligible medicare beneficiary (including an eligible medicare beneficiary enrolled in a Medicare+Choice plan) may enroll under this part.

"(B) SIMILAR TO PART B.—

"(i) IN GENERAL.—Except as provided in clause (ii), the process established under subparagraph (A) shall be similar to the process for enrollment in part B under section 1837.

"(ii) BENEFICIARY MUST AFFIRMATIVELY ENROLL.—For purposes of this part, the process shall require that an eligible medicare beneficiary affirmatively enroll under this part rather than deeming the beneficiary to be so enrolled if certain requirements are met.

"(2) REQUIREMENT OF ENROLLMENT.—An eligible medicare beneficiary must enroll under this program in order to be eligible to receive SPICE prescription drug coverage, including financial assistance for basic and stop-loss coverage under section 1860k.

"(8) WAIVER OF BASIC COVERAGE FOR MEDIQAP ENROLLEES.—

"(A) IN GENERAL.—The process established under paragraph (1) shall permit a beneficiary enrolled under this program to—

"(i) waive the basic coverage available under this part; and

"(ii) rescind such waiver in order to obtain such coverage.

"(B) RULES.—If a beneficiary waives basic coverage pursuant to paragraph (A)(ii), the following rules shall apply:

"(i) Such waiver shall not affect the stop-loss coverage that the beneficiary receives under the medicare supplemental policy, including the entitlement to financial assistance under section 1860k(c) for such coverage.

"(ii) The beneficiary shall not be liable for the basic monthly premium under section 1860h(a).

"(9) THE BENEFICIARY SHALL NOT RECEIVE BASIC COVERAGE BUT SHALL BE ENTITLED TO NEGOTIATED PRICES FOR COVERED OUTPATIENT DRUGS AS IF THE BENEFICIARY HAD NOT WAIVED SUCH COVERAGE.

"(10) IF THE BENEFICIARY SUBSEQUENTLY RESCINDS SUCH WAIVER PURSUANT TO SUBPARAGRAPH (A)(II), THE BENEFICIARY SHALL BE SUBJECT TO THE LAST ENROLLMENT PERIOD PREFERRED BY THE SPICE PRESCRIPTION DRUG COVERAGE ANY COVERED OUTPATIENT DRUG—

"(A) For which payment would not be made if section 1860(a) applied to part D; or

"(B) Which are not prescribed in accordance with the policy or plan or this part.

Such exclusions are determinations subject to reconsideration and appeal pursuant to section 1860c(e).

"ENROLLMENT UNDER SPICE DRUG BENEFIT PROGRAM
Board shall establish procedures for increasing the amount of the basic monthly premium under section 1860B(h)(1) to applicable such beneficiary—

"(A) by an amount that is equal to 25 percent of such premium for each full 12-month period (in the same continuous period of eligibility) in which the eligible Medicare beneficiary was enrolled under this part but was not so enrolled; or

"(B) if determined appropriate by the SPICE Board, by an amount that the SPICE Board determines is actually sound for such such period.

"(2) PERIODS TAKEN INTO ACCOUNT.—For purposes of calculating any 12-month period under paragraph (1), there shall be taken into account—

"(A) the months which elapsed between the close of the eligible Medicare beneficiary’s initial enrollment period and the close of the enrollment period in which the beneficiary reenrolled;

"(B) in the case of an eligible Medicare beneficiary who reenrolls under this part, the months which elapsed between the date of termination of a previous coverage period and the start of the enrollment period in which the beneficiary reenrolled; and

"(C) in the case of an eligible Medicare beneficiary who is enrolled under this part but has coverage pursuant to subsection (a)(3), the months which elapsed between the effective date of such waiver and the effective date of the rescission of such waiver.

"(3) PERIODS NOT TAKEN INTO ACCOUNT.—

"(A) IN GENERAL.—For purposes of calculating any 12-month period under paragraph (1), subject to subparagraph (B), there shall not be taken into account months for which (1), subject to subparagraph (B), there shall not be taken into account months for which

"(i) an eligible Medicare beneficiary may enroll under this part;

"(ii) the Medicare Part B enrollment period begins before the date on which the beneficiary’s enrollment in a Medicare Part B supplemental policy under section 1860F is terminated.

"(B) SEPARATE PERIOD.—Any period during all of which an eligible Medicare beneficiary satisfied paragraph (1) of section 1856 and which terminated during or before the month preceding the month in which the beneficiary attained age 65 shall be a separate continuous period of eligibility with respect to the beneficiary (and each such period which terminates shall be deemed not to have existed for purposes of subsequently applying this subparagraph).

"(c) Defined Period for Current Beneficiaries in Which Late Enrollment Procedures Do Not Apply.—The SPICE Board shall establish an applicable defined period for current beneficiaries in which late enrollment procedures do not apply. The SPICE Board shall establish procedures for coordinating enrollments, disenrollments and terminations of enrollments under plans described in subsections (a) and (c) with enrollments, disenrollments and terminations of enrollments under plan under sections 1882 and 1851, respectively.

"(d) Coordination of Enrollments, Disenrollments, and Terminations of Enrollment.—The SPICE Board shall establish procedures for coordinating enrollments, disenrollments and terminations of enrollments under plans described in subsections (a) and (c) of this section with enrollment, disenrollment and terminations of enrollment under plan described in subsection (C). The SPICE Board shall establish procedures for coordinating enrollments, disenrollments and terminations of enrollments under plans described in subsections (a) and (c) with enrollments, disenrollments and terminations of enrollments under part C.

"(e) Termination.—

"(1) IN GENERAL.—The causes of termination specified in section 1856 shall apply to this part in the same manner as they apply to part B.

"(2) COVERAGE TERMINATED BY TERMINATION OF COVERAGE UNDER PARTS A AND B.—In addition to the causes of termination described in paragraph (1), the SPICE Board shall terminate an individual plan if the individual is no longer enrolled in either part A or B.

"(f) Extension of Certain Medicare Policies.—Coverage under a medicare supplemental policy under section 1882 that provides benefits for prescription drugs but only if the policy was in effect on December 31, 2002, and only until the date such coverage terminates.

"(g) State Pharmaceutical Assistance Program.—Coverage of prescription drugs under a State pharmaceutical assistance program.

"(h) Veterans' Coverage of Prescription Drugs.—Coverage of prescription drugs for veterans under chapter 17 of title 38, United States Code.

"(i) Special Waiver.—Enrollment in a Medicare Supplemental Policy or a Medicare+Choice Plan.—Enrollment in a Medicare supplemental policy under section 1860B(h)(1) to applicable such beneficiary—

"(A) IN GENERAL.—Subject to subparagraph (B), for purposes of this subsection, an eligible Medicare beneficiary is an eligible Medicare beneficiary if the beneficiary is described in subparagraph (A)(ii) shall only apply with respect to a coverage period the beneficiary attained age 65 shall be a separate continuous period of eligibility with respect to the beneficiary (and each such period which terminates shall be deemed not to have existed for purposes of subsequently applying this subparagraph).

"(B) SPECIAL PERIOD.—Any period during which an eligible Medicare beneficiary satisfied paragraph (1) of section 1856 and which terminated during or before the month preceding the month in which the beneficiary attained age 65 shall be a separate continuous period of eligibility with respect to the beneficiary (and each such period which terminates shall be deemed not to have existed for purposes of subsequently applying this subparagraph).

"(C) PRESCRIPTION DRUG COVERAGE UNDER MEDICAID.—Coverage under a Medicare+Choice plan, a Medicare+Choice plan, a Medicare Drug Plan for Noncompetitive Areas, or a basic coverage plan under section 1860F is terminated for purposes of subparagraph (A) shall be effective for the period provided in section 1860F and resides in an area in which a Medicare Drug Plan for Noncompetitive Areas is available may enroll in a Medicare+Choice plan, or a Medicare Drug Plan for Noncompetitive Areas may enroll in a basic coverage plan offered by a private entity with a contract under section 1860F to offer such plan. Such plan shall include rules for enrollment, disenrollment, and termination of enrollment in such plan.

"(D) STATE PHARMACEUTICAL ASSISTANCE PROGRAM.—Coverage of prescription drugs under a State pharmaceutical assistance program.

"(E) VETERANS’ COVERAGE OF PRESCRIPTION DRUGS.—Coverage of prescription drugs for veterans under chapter 17 of title 38, United States Code.

"(F) PERIODS TREATED SEPARATELY.—Any increase in an eligible Medicare beneficiary’s basic monthly premium under paragraph (1) which results from a continuous period of eligibility shall not be applicable with respect to any other continuous period of eligibility which the beneficiary may have.

"(G) CONTINUOUS PERIOD OF ELIGIBILITY.—

"(A) IN GENERAL.—Subject to subparagraph (B), for purposes of this subsection, an eligible Medicare beneficiary is an eligible Medicare beneficiary if the beneficiary is described in subparagraph (A)(ii) shall only apply with respect to a coverage period the beneficiary attained age 65 shall be a separate continuous period of eligibility with respect to the beneficiary (and each such period which terminates shall be deemed not to have existed for purposes of subsequently applying this subparagraph).

"(B) SEPARATE PERIOD.—Any period during all of which an eligible Medicare beneficiary satisfied paragraph (1) of section 1856 and which terminated during or before the month preceding the month in which the beneficiary attained age 65 shall be a separate continuous period of eligibility with respect to the beneficiary (and each such period which terminates shall be deemed not to have existed for purposes of subsequently applying this subparagraph).

"(C) DEFINITE PERIOD OF ELIGIBILITY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the period for which coverage shall be provided in section 1838, as if that section applies to the beneficiaries described in paragraphs (1) and (2) of section 1838.

"(B) SPECIAL PERIOD.—Any period during which an eligible Medicare beneficiary satisfied paragraph (1) of section 1856 and which terminated during or before the month preceding the month in which the beneficiary attained age 65 shall be a separate continuous period of eligibility with respect to the beneficiary (and each such period which terminates shall be deemed not to have existed for purposes of subsequently applying this subparagraph).

"(D) SEPARATE PERIOD.—Any period during which an eligible Medicare beneficiary satisfied paragraph (1) of section 1856 and which terminated during or before the month preceding the month in which the beneficiary attained age 65 shall be a separate continuous period of eligibility with respect to the beneficiary (and each such period which terminates shall be deemed not to have existed for purposes of subsequently applying this subparagraph).

"(2) OPEN ENROLLMENT.—An eligible Medicare beneficiary who is enrolled under this part (but not enrolled in a medicare supplemental policy, a Medicare+Choice plan, or a Medicare Drug Plan for Noncompetitive Areas) may enroll in a basic coverage plan offered by a private entity with a contract under section 1860F to offer such plan. Such plan shall include rules for enrollment, disenrollment, and termination of enrollment in such plan.

"(3) PROCEDURES REGARDING TERMINATION OF A BENEFICIARY UNDER A PLAN OR POLICY.—The SPICE Board shall establish procedures for terminating the eligible Medicare beneficiary’s enrollment under this part if the beneficiary’s enrollment in a medicare supplemental policy, a Medicare+Choice plan, a Medicare Drug Plan for Noncompetitive Areas, or a basic coverage plan under section 1860F is terminated by the entity offering such policy or plan for failure to meet the terms and conditions requirements established under this title.

"(4) ENROLLMENT IN A POLICY OR PLAN

"(SEC. 1860D.)(a) Enrollment in Medicare Drug Plan for Noncompetitive Areas.—The SPICE Board shall establish a process through which an eligible medicare benefici-
medicare supplemental policy in an area, then that area is not a noncompetition area for purposes of this section. 

(c) CONTRACTS.—In order to provide the Medicare Drug Plan for Noncompetitive Areas under this section, the SPICE Board shall do 1 of the following: 

(1) SINGLE CONTRACT THAT COVERS ALL NONCOMPETITIVE AREAS.—Enter into a contract with 1 entity to administer and deliver the benefits under the plan in every designated noncompetition area. 

(2) MULTIPLE CONTRACTS.—Enter into a contract with 1 entity to administer and deliver the benefits under the plan in 1 or more (but less than all) of the designated noncompetition areas. 

(d) BIDDING PROCESS.— 

(1) IN GENERAL.—The SPICE Board shall establish procedures under which the SPICE Board accepts bids submitted by entities and awards a contract (or contracts pursuant to subsection (c)(2)) to an entity in order to administer and deliver the benefits under the Medicare Drug Plan for Noncompetitive Areas to eligible medicare beneficiaries. 

(2) COMPETITIVE PROCEDURES.—Competitive procedures (as defined in section 4(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(5))) shall be used to enter into contracts under this section. 

(3) NONCOMPETITIVE PROCEDURES.— 

(1) IN GENERAL.—The SPICE Board may not award a contract to an entity under this section unless the entity meets such terms and conditions as the SPICE Board shall specify, including the following: 

(A) The terms and conditions described in section 1860H(c). 

(B) The entity meets the quality and financial standards specified by the SPICE Board. 

(C) The entity meets applicable State licensure requirements. 

(2) PRIVATE ENTITY DEFINED.—For purposes of this paragraph, the term ‘private entity’ means any private entity that the SPICE Board determines to be appropriate to provide basic coverage plans to eligible medicare beneficiaries under this part, including— 

(1) a pharmacy benefit management company; 

(2) a retail pharmacy delivery system; 

(3) a health plan or insurer; 

(4) any other private entity approved by the SPICE Board. 

(3) APPLICATION TO ELIGIBLE ENTITIES.— 

(a) PROVIDING INFORMATION TO BENEFICIARIES.— 

(1) IN GENERAL.—The SPICE Board shall provide for activities that are designed to broadly disseminate information to eligible medicare beneficiaries (and prospective eligible medicare beneficiaries) on the SPICE drug benefit program under this part. 

(2) LATE ENROLLMENT PENALTIES TO BE WELL PUBLICIZED.—The SPICE Board shall ensure that information on the sanctions for delayed enrollment under section 1860C(b) and on the possibility of increased premiums for stop-loss coverage under section 1860H(b)(3) are well publicized. 

(3) SPECIAL RULE FOR INITIAL ENROLLMENT UNDER THE PROGRAM.— 

(A) CONSULTATION.—The SPICE Board shall consult with the Secretary, issuers of medicare supplemental policies, State insurance commissioners, Medicare+Choice organizations, and consumer organizations in developing the activities described in paragraph (1) that will be used to provide information regarding the initial enrollment under this part. 

(B) TIMEFRAME.—The activities described in paragraph (1) shall ensure that eligible medicare beneficiaries (and prospective eligible medicare beneficiaries) are provided with such information not later than December 1, 2002, in order to ensure that coverage under this part may be effective as of January 1, 2003. 

(4) COORDINATION WITH ACTIVITIES PERFORMED BY THE SECRETARY.—The SPICE Board shall, with the Secretary to ensure that the activities performed under this subsection are coordinated with the activities performed by the Secretary that provide information with respect to benefits under this title to eligible medicare beneficiaries and prospective eligible medicare beneficiaries. 

(b) REQUIREMENTS. 

(1) IN GENERAL.—The activities described in subsection (a) shall— 

(A) be similar to the activities performed under section 1860F(c)(1); and 

(B) eliminate, to the extent practicable, duplications in the development of materials and programs to disseminate the information referred to in clause (i) and (ii) of section 1860F(c). 

(2) INFORMATION REQUIRED.— 

(A) BE SIMILAR TO THE ACTIVITIES PERFORMED BY THE SECRETARY.—The SPICE Board shall ensure that the activities performed under this section are similar to the activities performed by the Secretary. 

(B) FINANCIAL ASSISTANCE.—The amount that shall be charged a beneficiary for basic coverage determined for the beneficiary under section 1860K(b) shall be equal to the total of the benefits (including financial assistance provided under subsection (b) and (c) of section 1860K) and payments and administrative costs that will be payable from the SPICE Prescription Drug Account within the Federal Supplementary Medical Insurance Trust Fund and paid in accordance with section 1860I(d).
a Medicare Drug Plan for Noncompetitive Areas, shall be responsible for making payments for any premiums required under the policy or plan for such coverage directly to the entity offering the policy or plan.

"(2) PREMIUM REDUCED BY AMOUNT OF FINANCIAL ASSISTANCE.—The entity offering such policy or plan shall reduce the premium described in paragraph (1) by the amount of the financial assistance for stop-loss coverage determined for the beneficiary under section 1860K(c).

"(3) DISSEMINATION IN PREMIUM FOR LATE ENROLLMENT OR FOR LACK OF CONTINUOUS STOP-Loss COVERAGE.—In the case of an eligible Medicare beneficiary who is subject to a late enrollment penalty under section 1860C or who has not had continuous stop-loss coverage under this part because the beneficiary was enrolled in a basic coverage plan under section 1897, the entity offering the medicare supplemental policy, the Medicare+Choice plan, or the Medicare Drug Plan for Noncompetitive Areas in which the beneficiary is enrolled may, notwithstanding any provision in this title, increase the portion of the premium attributable to stop-loss coverage that is otherwise applicable to such beneficiary; such increase shall not be an amount that reflects the additional actuarial risk involved. Such a risk shall be established through an appropriate actuarial opinion of the type established in subparagraphs (A) through (C) of section 2103(c)(4).

"(4) APPROVAL FOR ENTITIES OFFERING SPICE PRESCRIPTION DRUG COVERAGE FOR MEAL-CHOICE AND MEAL-CHOICE PLANS.—

"(a) APPROVAL.—No payments may be made to an entity offering a policy or plan that provides SPICE prescription drug coverage under section 1860J unless the entity has been approved by the SPICE Board.

"(b) PROCEDURES.—

"(1) IN GENERAL.—The SPICE Board shall establish procedures for approving entities that offer policies and plans that provide SPICE prescription drug coverage under this part, including an entity with a contract under section 1860F.

"(2) COORDINATION.—The procedures established under subparagraph (A) shall be coordinated with—

"(A) the case of the approval of medicare supplemental policies, the procedures for approval of such policies under State law; and

"(B) in the case of the approval of Medicare+Choice plans, the procedures established by the Secretary for approval of such plans under part C.

"(c) DISSEMINATION CONDITIONS.—The SPICE Board may not approve an entity under subsection (b) unless the entity, with respect to such policy or plan, meets such terms and conditions as the board may establish.

"(d) EFFICACY CONDITIONS.—The SPICE Board shall specify, including the following:

"(1) DISSEMINATION OF INFORMATION.—

"(A) GENERAL INFORMATION.—The entity shall provide clear, accurate, and standardized form to each enrollee under the policy or plan at the time of enrollment and at least annually thereafter, the information described in section 1852(c)(1) relating to such policy or plan. Such information shall include the following:

"(i) Access to covered outpatient drugs, including access through pharmacy networks.

"(ii) How any formulary used by the entity functions.

"(iii) Coinsurance and deductible requirements.

"(iv) Grievance and appeals procedures.

"(B) DISCLOSURE UPON REQUEST OF GENERAL COVERAGE, UTILIZATION, AND GRIEVANCE INFORMATION FOR ELIGIBLE ENROLLEES.—The entity shall provide, in a format that is readily accessible to a beneficiary who is eligible to enroll under the policy or plan, the entity shall provide the information described in section 1852(c)(2) (other than subparagraph (D) to such individual.

"(C) RESPONSE TO BENEFACTORY QUESTIONS.—The entity shall have a mechanism for providing information regarding the policy or plan to enrollees upon request and shall make available, through the Internet, website described in paragraph (7) and in writing, such information on specific changes in its formulary.

"(D) CLAIMS INFORMATION.—The entity shall furnish to each enrollee under the plan or policy or plan that provides SPICE prescription drug benefits under section 1860J unless the entity, with respect to such policy or plan, meets such terms and conditions as the board may establish, for the year, whenever prescription drug benefits are provided under such policy or plan (except that such notice need not be provided more often than monthly).

"(2) ACCESS TO COVERED BENEFITS.—

"(A) ASSURING PHARMACY ACCESS.—The entity shall ensure that the coverage provided under the policy or plan includes the medications and management and medication administration that is designed to assure that covered outpatient drugs under the policy or plan are appropriately used to achieve therapeutic goals and reduce the risk of adverse events, including adverse drug interactions.

"(B) ELEMENTS.—Such program may include—

"(i) enhanced beneficiary understanding of such appropriate use through beneficiary education, counseling, and other appropriate means; and

"(ii) increased beneficiary adherence with prescription medication regimens through medication refill reminders, special packaging, and other appropriate means.

"(iii) DEVELOPMENT OF PROGRAM IN COOPERATION WITH LICENSED PHARMACISTS.—The entity shall develop, in cooperation with licensed pharmacists and physicians.

"(iv) CONSIDERATIONS IN PHARMACY FEES.—The entity shall take into account, in establishing fees for pharmacists and others providing services under the medication therapy management program, the resources and time used in implementing the program.

"(v) TREATMENT OF ACCREDITATION.—Section 1852(e)(4) (relating to treatment of accreditation) shall apply to policies and plans under this part with respect to the following:

"(A) the case of the approval of medicare supplemental policies, the procedures for approval of such policies under State law; and

"(B) in the case of the approval of Medicare+Choice plans, the procedures established by the Secretary for approval of such plans under part C of this title.

"(6) PROVIDE INFORMATION ON THE INTERNET.—The entity shall maintain a web site that provides SPICE prescription drug coverage to enrollees under the policy or plan.

"(7) PROVIDE INFORMATION ON THE INTERNET.—The entity shall maintain a website on the Internet that provides eligible medicare beneficiaries with information regarding any policy or plan offered by the entity that provides SPICE prescription drug coverage.

"(8) CONFIDENTIALITY AND ACCURACY OF ENROLLEE RECORDS.—The entity shall meet the requirements of section 1852(h) with respect to covered benefits under the policy or plan it offers under this part in the same manner as such requirements apply to a Medicare+Choice plan for enrolling beneficiaries with coverage under Medicare+Choice plan under part C.

"(7) PROVIDE INFORMATION ON THE INTERNET.—The entity shall maintain a web site on the Internet that provides eligible medicare beneficiaries with information regarding any policy or plan offered by the entity that provides SPICE prescription drug coverage.

"(8) CONFIDENTIALITY AND ACCURACY OF ENROLLEE RECORDS.—The entity shall meet the requirements of section 1852(h) with respect to covered benefits under the policy or plan it offers under this part in the same manner as such requirements apply to a Medicare+Choice plan for enrolling beneficiaries with coverage under Medicare+Choice plan under part C.

"(9) PROVIDE INFORMATION ON THE INTERNET.—The entity shall maintain a web site on the Internet that provides eligible medicare beneficiaries with information regarding any policy or plan offered by the entity that provides SPICE prescription drug coverage.

"(10) PROVIDE INFORMATION ON THE INTERNET.—The entity shall maintain a web site on the Internet that provides eligible medicare beneficiaries with information regarding any policy or plan offered by the entity that provides SPICE prescription drug coverage.

"(11) PROVIDE INFORMATION ON THE INTERNET.—The entity shall maintain a web site on the Internet that provides eligible medicare beneficiaries with information regarding any policy or plan offered by the entity that provides SPICE prescription drug coverage.

"(12) PROVIDE INFORMATION ON THE INTERNET.—The entity shall maintain a web site on the Internet that provides eligible medicare beneficiaries with information regarding any policy or plan offered by the entity that provides SPICE prescription drug coverage.

"(13) PROVIDE INFORMATION ON THE INTERNET.—The entity shall maintain a web site on the Internet that provides eligible medicare beneficiaries with information regarding any policy or plan offered by the entity that provides SPICE prescription drug coverage.

"(14) PROVIDE INFORMATION ON THE INTERNET.—The entity shall maintain a web site on the Internet that provides eligible medicare beneficiaries with information regarding any policy or plan offered by the entity that provides SPICE prescription drug coverage.

"(15) PROVIDE INFORMATION ON THE INTERNET.—The entity shall maintain a web site on the Internet that provides eligible medicare beneficiaries with information regarding any policy or plan offered by the entity that provides SPICE prescription drug coverage.

"(16) PROVIDE INFORMATION ON THE INTERNET.—The entity shall maintain a web site on the Internet that provides eligible medicare beneficiaries with information regarding any policy or plan offered by the entity that provides SPICE prescription drug coverage.

"(17) PROVIDE INFORMATION ON THE INTERNET.—The entity shall maintain a web site on the Internet that provides eligible medicare beneficiaries with information regarding any policy or plan offered by the entity that provides SPICE prescription drug coverage.

"(18) PROVIDE INFORMATION ON THE INTERNET.—The entity shall maintain a web site on the Internet that provides eligible medicare beneficiaries with information regarding any policy or plan offered by the entity that provides SPICE prescription drug coverage.

"(19) PROVIDE INFORMATION ON THE INTERNET.—The entity shall maintain a web site on the Internet that provides eligible medicare beneficiaries with information regarding any policy or plan offered by the entity that provides SPICE prescription drug coverage.

"(20) PROVIDE INFORMATION ON THE INTERNET.—The entity shall maintain a web site on the Internet that provides eligible medicare beneficiaries with information regarding any policy or plan offered by the entity that provides SPICE prescription drug coverage.
(b) Payment of Financial Assistance to Entities for Provision of Stop-Loss Coverage.—

(1) In General.—The SPICE Board shall establish procedures for making financial assistance payments for stop-loss coverage to an entity offering a medicare supplemental policy, a Medicare+Choice plan, or a Medicare drug plan for a policy or plan under this section (with respect to stop-loss coverage provided under basic coverage on behalf of an eligible medicare beneficiary enrolled in such policy or plan and under this part).

(2) Amount of Financial Assistance Payment.—The amount of the financial assistance payments on behalf of an eligible medicare beneficiary for basic coverage is equal to the amount determined for the beneficiary under section 1860K(c).

(3) Entity Providing Stop-Loss Coverage at Risk.—The SPICE Board shall be at risk for the provision of such coverage.

Financial Assistance to Obtain Spice Prescription Drug Coverage.—

 SEC. 1860K. (a) Payments for Administering Basic Coverage.—

(1) In General.—The SPICE Board shall establish procedures for making payments to an entity offering a medicare supplemental policy, a Medicare+Choice plan, a Medicare Drug Plan for Noncompetitive Areas, or a basic coverage plan under section 1860F for—

(A) in accordance with the provisions of this part, the costs of covered outpatient drugs prescribed for basic coverage to eligible medicare beneficiaries; and

(B) pursuant to paragraph (2), administering the basic coverage on behalf of beneficiaries described in subparagraph (A).

(2) Administrative Fee.—

(A) Procedures.—The procedures established pursuant to paragraph (1) shall provide for payment to the entity of an administrative fee which is equal to the percentage of the median administrative fee for such entity.

(B) Amount.—The fee described in paragraph (1) shall be—

(i) consistent with the administrative costs described in clause (a) for providing basic coverage for a beneficiary; and

(ii) established by the SPICE Board.

(3) Risk Corridors Tied to Performance Measures and Other Incentives for Entity Providing Medicare Drug Plan for Noncompetitive Areas.—In the case of payments to an entity with a contract to provide a Medicare Drug Plan for Noncompetitive Areas the procedures established under paragraph (1) may include the use of—

(A) risk corridors tied to performance measures that have been agreed to between the entity and the SPICE Board under the contract; and

(B) any other incentives that the SPICE Board determines appropriate.

(4) Provisions.—The provisions of section 1862(b) shall apply to basic coverage provided under this part.
in order to make the income determination with respect to such beneficiary.

(3) Periodic Redeterminations.—Such income determinations shall be valid for a period (of not less than 1 year) specified by the SPICE Board, and shall be—

(a) annually, and provide such assurances as the SPICE Board may, that the income determination is accurate,

(b) immediately upon determining that the income determination is incorrect, the SPICE Board, and shall be—

(C) Restriction on Use of Information.—Information obtained under subparagraph (A) or (B) may not be used by official employees of the SPICE Board only for the purposes of, and to the extent necessary in, carrying out their responsibilities under this part.

(D) (3), a sponsor shall meet the following requirements:

(1) Definitions.—In this section:

(I) EMPLOYMENT-BASED RETIREE HEALTH COVERAGE.—The term "employment-based retiree health coverage program" means health insurance coverage for retired individuals under a qualified employer sponsored health plan.

(II) QUALIFIED RETIREE PRESCRIPTION DRUG PLAN.—The term "qualified retiree prescription drug plan" means prescription drug coverage under a qualified employer sponsored health plan that is separately administered and is subject to federal law.

(III) SPICE Board.—The term "SPICE Board" means the board established by subsection (b).

(E) (4), the SPICE Board, in consultation with the Secretary, shall:

(I) conduct ongoing studies of the determinations under this section.

(J) require a particular formulary or institute a price structure for the reimbursement of covered outpatient drugs.

(K) prepare a report to the Congress on the program under this part.

(P) PROVISION OF RECOMMENDATIONS AND INFORMATION TO SECRETARY.—The SPICE Board shall provide recommendations and necessary information regarding the SPICE drug benefit program to the Secretary in order for the Secretary to:

(A) integrate such information with information, counseling, and assistance grants under section 490 of the Omnibus Budget Reconciliation Act of 1990.

(B) conduct demonstration projects for the purpose of demonstrating ways to improve the quality of services provided under the SPICE drug benefit program, including ways to reduce medical errors.

(C) CONGRESSIONAL RECORD — SENATE

SEC. 1860L. (a) PROGRAM AUTHORITY.—The SPICE Board shall develop and implement a program under this section to be known as the 'Employer Incentive Program' that encourages employers and other sponsors of employment-based health care coverage to provide prescription drug coverage to retired individuals by subsidizing, in part, the sponsor's cost of providing coverage under this section.

(b) SPONSOR REQUIREMENTS.—In order to be eligible to receive an incentive payment under this section with respect to coverage of an individual under a qualified retiree prescription drug plan, and will remain such a plan for the duration of the sponsor's participation in the program under this section:

(A) annually, and provide such assurances as the SPICE Board may, that the coverage offered by the sponsor is a qualified retiree prescription drug plan, and will remain such a plan for the duration of the sponsor's participation in the program under this section; and

(B) not discriminate against any individual enrolled in the SPICE drug benefit program to the Secretary in order for the Secretary to:

(A) conduct demonstration projects for the purpose of demonstrating ways to improve the quality of services provided under the SPICE drug benefit program, including ways to reduce medical errors.

(B) require a particular formulary or institute a price structure for the reimbursement of covered outpatient drugs.

(C) CONGRESSIONAL RECORD — SENATE

SEC. 1860M. (a) ESTABLISHMENT.—There is established within the Department of Health and Human Services, a Senior Citizens Health Insurance Coverage Equity Office, which shall be—

(1) outside of the Centers for Medicare & Medicaid Services;

(2) run by a board to be known as the SPICE Board.
(A) IN GENERAL.—The SPICE Board shall be composed of 7 members appointed by the President, by and with the advice and consent of the Senate.

(B) APPOINTMENTS.—In making appointments under subparagraph (A), the President shall ensure that the following groups are represented on the SPICE Board:

(i) Consumers.

(ii) Private health plan insurers (including insurers that offer fee-for-service and managed care plans) with expertise in the field of health and medical services as officers or employees of the United States shall serve without compensation for their services as officers or employees of the United States.

(C) SECRETARY OF HHS.—In addition to the 7 members appointed under subparagraph (A), the Secretary shall be a nonvoting, ex officio member of the SPICE Board.

(D) DEADLINE FOR INITIAL APPOINTMENT.—The initial members of the SPICE Board shall be appointed by not later than 6 months after the date of enactment of this section.

(2) QUORUM.—A majority of the members of the SPICE Board shall be 5 years, except that of the members first appointed—

(i) three shall be appointed for terms of 6 years;

(ii) two shall be appointed for terms of 4 years;

(iii) two shall be appointed for terms of 2 years.

(B) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may not be appointed to fill a vacancy that member's term until a successor has taken office.

(C) CHAIRPERSON.—The chairperson of the SPICE Board may be a volunteer or employee of the United States.

(D) COMPENSATION.—The chairperson of the SPICE Board may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification, compensation, status or privilege.

(E) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The chairperson of the SPICE Board may procure temporary and intermittent services under section 510(b) of title 5, United States Code, at rates for individuals that do not exceed the daily rate of pay prescribed for level IV of the Executive Schedule under section 5316 of such title.

(F) POWERS OF THE SPICE BOARD.—Any Federal Government employee may be detailed to the SPICE Board without further reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(G) REMOVAL.—The President may remove a member of the SPICE Board only for neglect of duty or malfeasance in office.

(2) STAFF.—(A) IN GENERAL.—The chairperson of the SPICE Board may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other personnel as may be necessary to enable the SPICE Board to perform its duties. The employment of an executive director shall be subject to confirmation by the Senate.

(B) COMPENSATION.—The chairperson of the SPICE Board may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification, compensation, status or privilege.

(C) SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this Act.

SEC. 2. SPICE PRESCRIPTION DRUG COVERAGE UNDER MEDICARE+CHOICE PLANS.

(a) SPECIAL RULES.—Section 1851 of the Social Security Act (42 U.S.C. 1395w-21) is amended by adding at the end the following new subsection:

"(j) RULES FOR PROVIDING PHARMACY SERVICES TO ENROLLED BENEFICIARIES.—(1) IN GENERAL.—In the case of an individual that is enrolled in a Medicare+Choice plan and enrolled under part D, the basic benefits required to be provided under section 1852(a)(1)(A) shall include SPICE prescription drug coverage (as defined in section 1860B(a)) under the terms and conditions for coverage established under part D, including the terms and conditions described in section 1860(c).

(2) LIMITATION ON ENROLLEE LIABILITY.—In the case of an individual enrolled in a Medicare+Choice plan shall not be required to enroll under part D.

(3) VOLUNTARY ENROLLMENT IN PART D.—An individual enrolled in a Medicare+Choice plan shall not be permitted to enroll in part D.
a Medicare+Choice plan on behalf of an individual described in paragraph (1)(A) may require the individual to pay a premium for stop-loss coverage (as defined in section 1860B(b)(1)(B)) that shall be considered to be part of the Medicare+Choice monthly basic premium (as defined in section 1854(b)(2)(A)) that the individual is responsible for paying.

“(B) Organization required to reduce premium by amount of financial assistance.—A Medicare+Choice organization receiving payment for financial assistance for stop-loss coverage on behalf of an individual described in paragraph (1)(A) pursuant to subsection (b) of section 1860B shall reduce any premium described in subparagraph (A) by the amount of such financial assistance.

“(4) Payments to organization for spice prescription drug coverage pursuant to part D rules.—The SPICE Board (established under section 1860M) shall make payments to a Medicare+Choice organization offering a Medicare+Choice plan on behalf of an individual described in paragraph (1)(A) pursuant to the payment mechanisms described in subsections (a) and (b) of section 1860M, as shall be consistent with payments made to such organization under section 1853.

“(5) Coordinated enrollment.—The Secretary shall work with the SPICE Board to coordinate enrollment under this part with enrollment under part D.

“(b) Effective date.—The amendment made by this section shall apply to items and services provided under a Medicare+Choice plan on or after January 1, 2003.

SEC. 4. MEDIGAP REVISIONS AND TRANSITION PROVISIONS.

(a) Establishment of spice medigap policies under the social security act, as amended (42 U.S.C. 1395v–4) is amended by adding at the end the following new subsection:

“(v) Policies revising the basic benefits

“(1) Revision of benefit packages.—

“(A) In general.—Notwithstanding subsection (p), the benefit packages established under such subsection shall be revised so that—

“(i) if the policyholder is enrolled under part D, basic coverage (as defined in section 1860B(h)) is available as part of each benefit package;

“(ii) each benefit package includes stop-loss coverage (as defined in section 1860B(c)) in the form of a basic benefit described in subsection (p)(2)(B);

“(iii) no benefit package (including each benefit package classified as ‘H’, ‘I’, or ‘J’) under such subsection shall be established by such subsection (p)(2), and the benefit package classified as ‘J’ with a high deductible feature described in subsection (p)(1)(I) includes prescription drug coverage other than the basic coverage required under clause (i) (if applicable), or the stop-loss coverage required under clause (i); and

“(iv) as revised under the preceding clauses or pursuant to subsection (p)(1)(E), the benefit packages are identical to the benefit packages that were available on the date of enactment of the seniors prescription insurance coverage equity (SPICE) act of 2001.

“(B) Administration of benefits.—Pursuant to section 1854(a)(A), an issuer of a medicare supplemental policy revised under such subparagraph may directly administer the prescription drug benefits required under the policy in a contract with an entity that meets the applicable requirements under part D to administer such benefits.

“(C) manner of revision.—The benefit packages for this section may be revised in the manner described in subparagraph (E) of subsection (p)(1), except that for purposes of subparagraph (C) of such subsection, the standards established under this subsection shall take effect not later than January 1, 2003.

“(2) Government Issuance and Renewal of New Policies.—The provisions of subsections (q) and (s) shall apply to medicare supplemental policies revised under this subsection in such a manner that such provisions apply to medicare supplemental policies issued under the standards established under subsection (p).

“(3) Opportunity of current policyholders to purchase revised policies.—

“(A) In general.—No medicare supplemental policy (as defined in section 1860B(a)(2)(A)) with a benefit package that is revised under paragraph (1) shall be deemed to meet the standards in subsection (c) unless the issuer (at the most recent available address) of the offer described in clause (i) and of the offer described in clause (ii) of such subparagraph shall have been directly notified by the Secretary that such offer fails to meet the standards in subsection (c) that the Secretary determines is most comparable to the policy in which the individual is enrolled.

“(B) Terms of Offer Described.—The terms described under this subparagraph are terms which do not—

“(i) deny or condition the issuance or effectiveness of a medicare supplemental policy described in subparagraph (A)(ii) that is offered and is available for issuance to new enrollees by such issuer;

“(ii) discriminate in the pricing of such policy because of health status, claims experience, receipt of health care, or medical condition; or

“(iii) exclude or reduce benefits based on a preexisting condition under such policy.

“(4) Opportunity of other eligible individuals to purchase revised policies.—No medicare supplemental policy of an issuer with a benefit package that is revised under paragraph (1) shall be deemed to meet the standards in subsection (c) unless, during at least the period established under section 1860C, the institution of coverage effective for the period described in subsection (c) of such section, a medicare supplemental policy with the benefit package that has been revised under paragraph (1) of this subsection that the Secretary determines is most comparable to the policy in which the individual is enrolled.

“(B) Terms of Offer Described.—The terms described under this subparagraph are terms which do not—

“(i) deny or condition the issuance or effectiveness of a medicare supplemental policy described in subparagraph (A)(ii) that is offered and is available for issuance to new enrollees by such issuer;

“(ii) discriminate in the pricing of such policy because of health status, claims experience, receipt of health care, or medical condition; or

“(iii) exclude or reduce benefits based on a preexisting condition under such policy.

“(5) Grandfathering of current policyholders.—

“(A) In general.—Except as provided in subparagraph (B), no person may sell, issue, or renew a medicare supplemental policy with a benefit package that has not been revised under this subsection on or after January 1, 2003.

“(B) Grandfathering.—Each policyholder or certificate holder of a medicare supplemental policy as defined in section 1860B(a)(2)(A) that is offered and is available for issuance to new enrollees by such issuer (at the most recent available address) of the offer described in clause (i) of such subparagraph that is revised under paragraph (1) of this subsection shall have the right to continue to receive benefits under such policy that only provide SPICE prescription drug coverage as defined in section 1860B(a) of such Act, as added by section 2) and whether the total number of such benefit packages should be reduced;

“(B) to identify methods to ensure that any financial assistance paid to issuers of medicare supplemental policies on behalf of enrollees for stop-loss coverage (as defined in section 1860B(a)) shall be used only for the purpose of such policies, including the benefits relating to parts A and B of the medicare program should be revised as a result of the establishment of SPICE prescription drug coverage (as defined in section 1860B(a) of such Act, as added by section 2) and whether the total number of such benefit packages should be reduced;

“(B) to identify methods to ensure that any financial assistance paid to issuers of medicare supplemental policies on behalf of enrollees for stop-loss coverage (as defined in section 1860B(a)) shall be used only for the purpose of such policies, including the benefits relating to parts A and B of the medicare program should be revised as a result of the establishment of SPICE prescription drug coverage (as defined in section 1860B(a) of such Act, as added by section 2) and whether the total number of such benefit packages should be reduced;

“(B) to identify methods to ensure that any financial assistance paid to issuers of medicare supplemental policies on behalf of enrollees for stop-loss coverage (as defined in section 1860B(a)) shall be used only for the purpose of such policies, including the benefits relating to parts A and B of the medicare program should be revised as a result of the establishment of SPICE prescription drug coverage (as defined in section 1860B(a) of such Act, as added by section 2) and whether the total number of such benefit packages should be reduced;

“(B) to identify methods to ensure that any financial assistance paid to issuers of medicare supplemental policies on behalf of enrollees for stop-loss coverage (as defined in section 1860B(a)) shall be used only for the purpose of such policies, including the benefits relating to parts A and B of the medicare program should be revised as a result of the establishment of SPICE prescription drug coverage (as defined in section 1860B(a) of such Act, as added by section 2) and whether the total number of such benefit packages should be reduced;

“(B) to identify methods to ensure that any financial assistance paid to issuers of medicare supplemental policies on behalf of enrollees for stop-loss coverage (as defined in section 1860B(a)) shall be used only for the purpose of such policies, including the benefits relating to parts A and B of the medicare program should be revis...
(B) transmit information about the coverage of covered outpatient drugs under the policy or plan in which such a beneficiary is receiving SPICE prescription drug coverage to prescribing physicians;
(C) increase the use of generic drugs by such beneficiaries; and
(D) increase the compliance of entities offering policies or plans that provide SPICE prescription drug coverage; and

(4) any entity (including a pharmacy benefits management company) that contracts with an entity described in subparagraph (C) to provide benefits under such policies or plans.

(4) DURATION OF PROJECTS.—The demonstration project shall be conducted over a 3-year period.

(b) REPORTS TO CONGRESS.—

(1) IN GENERAL.—

(A) INITIAL REPORT.—Not later than 18 months after the SPICE Board implements the demonstration project, the SPICE Board shall submit to Congress an initial report on the demonstration project.

(B) FINAL REPORT.—Not later that 6 months after the conclusion of the project, the SPICE Board shall submit to Congress a final report on the demonstration project.

(2) CONTENTS OF REPORTS.—The report described in paragraph (1) shall include the following:

(A) A detailed description of the demonstration project.

(B) An evaluation of the demonstration project.

(C) Recommendations for legislation that the SPICE Board determines to be appropriate as a result of the demonstration project.

(D) Any other information regarding the demonstration project that the SPICE Board determines to be appropriate.

(c) FUNDING.—Expenditures made for carrying out the demonstration project shall be made from funds otherwise appropriated to the Secretary of Health and Human Services.

Ms. SNOWE. Mr. President, I am pleased to join with my friend and colleague, Senator RON WYDEN, in the introduction of the Seniors Prescription Insurance Coverage Equity Act of 2001, or “SPICE.” I want to thank him for his enthusiasm about and his commitment to this joint venture.

It was just about two years ago now that Senator WYDEN and I introduced this bill. Since that time, SPICE 2001 is the product of almost three years of work and development. Since 1999, when we first tackled this issue, there has been much discussion about how to design a prescription drug coverage plan that is both comprehensive and affordable. This balanced choice but guarantees availability of basic coverage. And, perhaps most importantly, one that is workable for seniors, the Medicare program and one that private providers will offer. We believe we have struck the right balance.

I believe that this bill is a benchmark for the Senate’s consideration of a comprehensive out-patient prescription drug program under Medicare. I offer this bill today, with my friend Senator WYDEN because it is the product of a three year collaborative effort to provide our Nation’s seniors with prescription drug coverage, and I offer it with the hopes that it will be considered as part of a broader reform when the Senate takes one up.

Americans age 65 and older are only 12 percent of the population but account for over 40 percent of all drug spending. Which isn’t surprising considering it was six years ago, we pay less than $3,000 for their drugs. For these seniors, they might only want to purchase the basic coverage. Those who need more than just the basic coverage can buy them both. For those who can manage their spending and only want to protect themselves from catastrophic expenses, they can purchase stop-loss coverage.

And, importantly, all SPICE enrollees receive the benefit of the negotiated cost of their prescription drugs, starting with their first prescription.

Choice is one of the cornerstones of this program. Seniors will not only have the choice of their level of coverage, but will be able to choose from a variety to have their care delivered. SPICE can be run through Medigap, Medicare-Choice plans, or private entities. In areas where there are no insurers, the SPICE Board will have the authority to negotiate with entities to bring them into the program.

One of the perennial arguments against government sponsored or assisted prescription drug coverage for our retirees has been that if we did it, employers wouldn’t. We already know that fewer employers are offering retiree health benefits than just 12 years ago, this is a trend we hope to discourage. This is why the SPICE Board is authorized to provide the 25 percent premium subsidy as an incentive to employers who offer prescription drug coverage for their retirees. It is critical we encourage employers to continue to offer this type of coverage and we acknowledge that in this bill.

According to a 1998 Wall Street Journal poll, 80 percent of retirees use a prescription drug every day. The average Medicare beneficiary fills a prescription drug prescription 18 times a year. It is long past time that we ensure that these prescriptions are covered.

SPICE 2001 offers something for everyone interested in providing our seniors with prescription drug coverage. It is a program that can be incorporated in existing health plans, will be run through a government Board whose sole purpose is ensuring that this program runs well, and will foster competition and allow for choice in both coverage and providers.

By Mr. DOMENICI (for himself, Mr. INOUYE, Mr. CAMPBELL, Mr. BINGAMAN, Mr. BAUCUS, Mr. CRAPO, Mr. ALLARD, Mr. JOHN- son, and Mr. KYL):
S. 1186. A bill to provide a budgetary mechanism to ensure that funds will be available to satisfy the Federal Government’s responsibilities with respect to negotiated settlements of disputes related to Indian water rights claims and Indian land claims; to the Committee on Appropriations, the Committee on Budget, and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

Mr. DOMENICI. Mr. President, both as chairman and now as the ranking member on the Budget Committee, I have been working over the last year with the Western Governors’ Association, the Western Regional Council, the Native American Rights Fund, the Western States Water Council, as well as several Indian tribes to correct what I believe to be a flaw in the Budget Enforcement Act as it relates to the Federal claims of Indian land and water settlements.

I, along with a group of bipartisan Senators, including the chairman and ranking member of the Indian Affairs Committee are introducing today legislation that Congress fulfill its commitment to authorized Indian land and water settlements.

In FY 2002, the President’s request for Indian land and water settlements funding was $61 million. This represents a decrease from fiscal year 2001 of $23 million. The increase is due to the authorization of several large settlements in California, Colorado, Michigan, New Mexico, and Utah.

I am pleased to report that the full request was included in both the Senate and House passed budget resolutions. In turn, the request was fully appropriated in both the House and Senate versions of the fiscal year 2002 Interior appropriations bill. This is a tremendous first step in making sure the Congress fulfills its obligation regarding these settlements. But it is only the first step.

In the near future, there are, at least, three additional large settlements likely to come before Congress. The States involved in these settlements are Arizona, Idaho, and Montana. Under current budgetary treatment these settlements will be difficult to fund without taking critical resources from other Bureau of Indian Affairs programs.

Currently, once these settlements have been agreed to by the parties involved, the settlements come to Congress for authorization and appropriation. When all appropriations have been distributed the Indians give up any future claims to the land or water.

Appropriations for these settlements are usually spread over 3-10 years depending on the size of the settlement. The payout in one year for an individual settlement may not be funded because funds would have to be taken from other programs in their budget, such as Indian school construction, education, community development.

The legislation I am introducing today, the Fiscal Integrity of Indian Settlements Protection Act of 2001, provides for a cap adjustment similar to the one that deals with U.N. arrearages. It would be for authorized Indian land and water settlements and would set a ceiling on what could be spent in one year. Under this proposal, the settlements would still have to be authorized and appropriated, but it would hold the BIA budget harmless for the cost of the settlements.

Let me be clear, if these claims are not settled, the US government still can be held liable in court. Claims that go through the court process are authoritatively paid out of the Claims and Judgement Fund. In most cases, negotiated settlements provide more water to the tribe at a less expensive bill to the Federal Government.

Frankly, this simple cap adjustment for authorized and appropriated monies for settlements provides a win-win situation for all parties involved.

We have made good progress toward funding our Indian responsibilities these past few years. This legislation is a very important step.

I, along with Senators INOUYE, CAMPBELL, ALLARD, Baucus, BINGAMAN, CRAPAO, JOHNSON, and KYL, urge my colleagues to support this bill and future funding of Indian land and water settlements.

I ask unanimously, that a letter from the Ad Hoc Group on Indian Water Rights be printed in the RECORD. There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AD HOC GROUP ON INDIAN WATER RIGHTS, June 27, 2001.

Members of the United States Senate, Washington, D.C.

DEAR SENATOR: We write to urge your support and co-sponsorship of proposed legislation to be introduced shortly entitled the “Fiscal Integrity of Indian Settlements Protection Act of 2001”. A “Dear Colleague” letter by Senators Bingaman, Crapo, Inouye, KYL, and Campbell was sent to your office on May 23, 2001, describing the bill.

Across the country, negotiations are on-going to settle complex Indian land and water claims. Funding for these settlements is one of the biggest hurdles to overcome. This legislation is important so that Indian land and water right settlements once authorized by Congress, the tribes or the states.

The problem with the current status of Indian land and water settlements is an important obligation of the United States government. The obligation is analogous to, and no less serious than, the obligation of the United States to pay judgments rendered against it. We urge that steps be taken to change current budgetary policy to ensure that any Indian land or water settlements once authorized by the Congress and approved by the President, will be funded. If such a change is not made, these claims will likely be relegated to litigation, an outcome that should not be acceptable to the Administration, the Congress, the tribes or the states.

Again, we urge you cosponsor the “Fiscal Integrity of Indian Settlements Protection Act of 2001” and support its passage to ensure congressional funding for Native American land and water right settlements once they have been formally executed by the parties and authorized by Congress.

Sincerely,

JANE DEE HULL, Co-Lead Governor on Indian Water Rights Settlements, Western Governors’ Association.

JOHN KUTZHABER, Co-Lead Governor on Indian Water Rights Settlements, Western Governors’ Association.

KT KIMBALL, Director, Western Regional Council.

JOHN EICHOWA, Executive Director, Native American Rights Fund.

MICHAEL BROPHY, Chairman, Western States Water Council.

By Mr. ROCKEFELLER (for himself and Mr. CLELAND):

S. 1188. A bill to amend title 38, United States Code, to enhance the authority of the Secretary of Veterans Affairs to recruit and retain qualified nurses for the Veterans Health Administration, and for other purposes, to the Committee on Veterans’ Affairs.

Mr. ROCKEFELLER. Mr. President, I am happy to introduce this legislation with Senators CLELAND and SPECTER the Department of Veterans Affairs Nurse Recruitment and Retention Enhancement Act of 2001.

On June 14, 2001, the Committee on Veterans’ Affairs held a hearing to explore reasons for the imminent shortage of professional nurses in the United...
In my own State of West Virginia, many LPN's are not receiving Saturday premium pay. Deborah Dixon is an LPN at the VA Medical Center in Huntington, WV. She works nights 6 days in a row, has 2 days off, works nights 5 days, then has 1 day off, then works 4 nights, then has 1 day off. As a result, she has off every third weekend. She says that ‘LPN’s deserve Saturday premium pay. It feels like discrimination. It makes me wonder why LPN’s are not being respected.’ I believe this change in law will make pay more consistent and fair for our health care workers.

Programs initiated within VA to improve conditions for nurses and patients have focused on issues other than staffing ratios, pay, and hours. A highly praised scholarship program that I spearheaded allows VA nurses to pursue degrees and training in return for their service, thus encouraging professional development and improving the quality of health care. Included within the legislation we introduced today are modifications to the existing scholarship and debt reduction programs. These changes are intended to improve the programs by providing additional flexibility.

In the Upper Midwest, the special skills of nurses and nurse practitioners are being recognized in clinics that provide supportive care close to the veterans who need it. The legislation before us here today would amend the treatment of part-time service performed by certain title 38 employees prior to April 7, 1986, for purposes of retirement credit. Currently, part-time service performed by title 5 employees prior to April 7, 1986, is treated as full-time service; however, title 38 employees’ part-time services prior to April 7, 1986, is counted as part-time service and therefore results in lower annuities for these employees. Retirement nurses, such as Tonya Rich from Morgantown, WV, who has contacted me, stress the inequity of the situation. In order to rectify this, our legislation exempts registered nurses, physician assistants, and expanded-function dental auxiliaries from the requirement that part-time service performed prior to April 7, 1986, be pro-rated when calculating retirement annuities.

This bill is a good start, but clearly, we must remain vigilant. Although the nursing crisis has not yet reached its projected peak, the shortage is already endangering patient safety in the areas of critical and long-term care, where demands on nurses are greatest. We must encourage higher enrollment in nursing schools, improve the work environment, and offer nurses opportunities to develop as respected professionals, while taking steps to ensure safe staffing levels in the short-term.

We do not have the luxury of reflecting upon this problem at length; we must act now. Fortunately, we have as allies hardworking nurses who are dedicated to helping us find ways to improve working conditions and to recruit more young people to our field. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1188

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 “Department of Veterans Affairs Nurse Recruitment and Retention Enhancement Act of 2001.”

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—ENHANCEMENT OF RECRUITMENT AUTHORITIES

Sec. 101. Enhancement of employee incentive scholarship program.
Sec. 102. Enhancement of education debt reduction program.
Sec. 103. Report on requests for waivers of payment reductions for reemployed annuitants to fill nurse positions.

TITLE II—ENHANCEMENT OF RETENTION AUTHORITIES

Sec. 201. Additional pays for Saturday tours of duty for additional health care professional in the Veterans Health Administration.
Sec. 202. Unpaid sick leave included in annuity computation.
Sec. 203. Evaluation of Department of Veterans Affairs nurse managed clinics.
Sec. 204. Staffing levels for operations of medical facilities.
Sec. 205. Annual report on use of authorities to enhance retention of experienced nurses.
Sec. 206. Report on mandatory overtime for nurses assigned to duty in Department of Veterans Affairs facilities.

TITLE III—OTHER MATTERS

Sec. 301. Organizational responsibility of the Director of the Nursing Service.
Sec. 302. Computation of annuity for part-time service performed by certain health-care professionals prior to April 7, 1986.
Sec. 303. Modification of nurse locality pay authorities.
Sec. 304. Technical amendments.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made
to a section or other provision of title 38, United States Code.

**TITLE I—ENHANCEMENT OF RECRUITMENT AUTHORITIES**

**SEC. 101. ENHANCEMENT OF EMPLOYEE INCENTIVE SCHOLARSHIP PROGRAM.**

(a) PERMANENT AUTHORITY.—(1) Section 7676 is amended.

(2) [Existing text.] (b) MINIMUM PERIOD OF DEPARTMENT EMPLOYMENT FOR ELIGIBILITY.—Section 7672(b) is amended by striking "2 years" and inserting "one year".

(c) SCHOLARSHIP AMOUNT.—Subsection (b) of section 7673 is amended—

(1) in paragraph (1), by striking for "any one year" and inserting for the equivalent of one year of full-time coursework; and

(2) in paragraph (2) and inserting the following new paragraph:

"(2) in the case of a participant in the Program who is a part-time student, shall bear the same ratio to the amount that would be paid under paragraph (1) if the participant were a full-time student in the course of education or training being pursued by the participant, for which coursework carries creditable to the student bears to full-time coursework in that course of education or training.

(d) ANNUAL ADJUSTMENT OF MAXIMUM DEBT REDUCTION PAYMENTS AMOUNT.—(1) Section 7631, as amended by section 103(f) of this Act, is further amended—

(A) in subsection (a)(1), by inserting before the period at the end of the first sentence "one year of full-time coursework"; and

(B) in subsection (b), by striking paragraph (4) and inserting the following new paragraph:

"(4) In this subsection, the term "maximum education debt reduction payments amount" means the maximum amount of debt reduction payments payable to a participant in the Department of Veterans Affairs Education Debt Reduction Program under subchapter VII of this chapter, as specified in section 7655(d)(1) of this title (as adjusted if at all) in accordance with this section.".

(2) Notwithstanding section 7633(a)(1) of title 38, United States Code, as amended by paragraph (1), the Secretary of Veterans Affairs shall not increase the maximum education debt reduction payments amount under that section in calendar year 2002.

(e) TEMPORARY EXPANSION OF INDIVIDUALS ELIGIBLE FOR THE PROGRAM.—(1) Notwithstanding section 7622(c) of title 38, United States Code, the Secretary of Veterans Affairs may treat a covered individual in the Veterans Health Administration under section 7622(a) of that title for purposes of eligibility in the Education Debt Reduction Program if the Secretary determines that the participation of the individual in the Program under this subsection would further the purposes of the Program.

(2) For purposes of this subsection, a covered individual described by section 7622(a)(1) of title 38, United States Code, as in effect on the date of the enactment of this Act, who was appointed as an employee in a position described in paragraph (1) of that section, as so in effect, between January 1, 1999, and September 30, 2000; and

(3) If such a request was granted, whether or not the waiver or authority, as the case may be, is a grant of authority under subsection (1)(A) of section 8394 of title 5, United States Code, for the waiver of the provisions of such section in order to meet requirements of the Department for appointments to such positions to the Veterans Health Administration.

**TITLE II—ENHANCEMENT OF RETENTION AUTHORITIES**

**SEC. 201. ADDITIONAL PAY FOR SATURDAY TOURS OF DUTY FOR ADDITIONAL HEALTH CARE PROFESSIONAL IN THE VETERANS HEALTH ADMINISTRATION.**

(a) IN GENERAL.—Section 7454(b) is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following new paragraph:

"(2) Health care professionals employed in positions referred to in paragraph (1) shall be entitled to additional pay on the same basis as provided for nurses in section 7454(c) of this title.

(b) APPLICABILITY.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

**SEC. 202. UNUSED SICK LEAVE INCLUDED IN ANNUITY COMPUTATION OF REGULAR INTERNS WITH THE VETERANS HEALTH ADMINISTRATION.**

(a) ANNUITY COMPUTATION.—Section 8415 of title 5, United States Code, is amended by adding at the end the following:

"(i) In computing an annuity under this subchapter, the total service of an employee who retires from the position of a registered nurse with the Veterans Health Administration on an immediate annuity, or dies while employed in that position leaving any survivor entitled to an annuity, includes the unused sick leave to the credit of that employee under a formal leave system, except that such days shall not be counted in

**SEC. 103. REPORT ON REQUESTS FOR WAIVERS OF PAY REDUCTIONS FOR REEMPLOYED ANNUITANTS TO FILL NURSE POSITIONS.**

(a) REPORT.—Not later than November 30 of each of 2001 and 2002, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report describing each request of the Secretary, during the fiscal year preceding such report, to the Director of the Office of Personnel Management for the following:

(1) A waiver under subsection (1)(1)(A) of section 8394 of title 5, United States Code, of the provisions of such section in order to meet requirements of the Department of Veterans Affairs for appointments to nurse positions in the Veterans Health Administration.

(2) A waiver under subsection (1)(1)(A) of section 8408 of title 5, United States Code, of the provisions of such section in order to meet requirements of the Department for appointments to such positions.

(3) A grant of authority under subsection (1)(1)(B) of section 8394 of title 5, United States Code, for the waiver of the provisions of such section in order to meet requirements of the Department for appointments to such positions.

(b) INFORMATION ON RESPONSES TO REQUESTS.—The report under subsection (a) shall specify for each request covered by the report—

(1) the response of the Director to such request; and

(2) if such request was granted, whether or not the waiver or authority, as the case may be, is a grant of authority under subsection (1)(1)(B) of section 8394 of title 5, United States Code, for the waiver of the provisions of such section in order to meet requirements of the Department for appointments to such positions.

**SEC. 104. REDUCTION PAYMENTS AMOUNT.—(1) Section 7683(d)(1) is amended—

(A) in subsection (a)(1), by inserting before the period at the end of the first sentence "for the equivalent of three years of full-time coursework"; and

(B) in subsection (b), by striking paragraph (4) and inserting the following:

"(4) In this subsection, the term "maximum education debt reduction payments amount" means the maximum amount of debt reduction payments payable to a participant in the Department of Veterans Affairs Education Debt Reduction Program under subchapter VII of this chapter, as specified in section 7655(d)(1) of this title (as adjusted if at all) in accordance with this section.

(2) Notwithstanding section 7633(a)(1) of title 38, United States Code, as amended by paragraph (1), the Secretary of Veterans Affairs shall not increase the maximum education debt reduction payments amount under that section in calendar year 2002.

(e) TEMPORARY EXPANSION OF INDIVIDUALS ELIGIBLE FOR THE PROGRAM.—(1) Notwithstanding section 7622(c) of title 38, United States Code, the Secretary of Veterans Affairs may treat a covered individual in the Veterans Health Administration under section 7622(a) of that title for purposes of eligibility in the Education Debt Reduction Program if the Secretary determines that the participation of the individual in the Program under this subsection would further the purposes of the Program.

(2) For purposes of this subsection, a covered individual described by section 7622(a)(1) of title 38, United States Code, as in effect on the date of the enactment of this Act, who was appointed as an employee in a position described in paragraph (1) of that section, as so in effect, between January 1, 1999, and September 30, 2000; and

(3) If such a request was granted, whether or not the waiver or authority, as the case may be, is a grant of authority under subsection (1)(1)(B) of section 8394 of title 5, United States Code, for the waiver of the provisions of such section in order to meet requirements of the Department for appointments to such positions.

(b) INFORMATION ON RESPONSES TO REQUESTS.—The report under subsection (a) shall specify for each request covered by the report—

(1) the response of the Director to such request; and

(2) if such request was granted, whether or not the waiver or authority, as the case may be, is a grant of authority under subsection (1)(1)(B) of section 8394 of title 5, United States Code, for the waiver of the provisions of such section in order to meet requirements of the Department for appointments to such positions.

(e) TEMPORARY EXPANSION OF INDIVIDUALS ELIGIBLE FOR THE PROGRAM.—(1) Notwithstanding section 7622(c) of title 38, United States Code, the Secretary of Veterans Affairs may treat a covered individual in the Veterans Health Administration under section 7622(a) of that title for purposes of eligibility in the Education Debt Reduction Program if the Secretary determines that the participation of the individual in the Program under this subsection would further the purposes of the Program.

(2) For purposes of this subsection, a covered individual described by section 7622(a)(1) of title 38, United States Code, as in effect on the date of the enactment of this Act, who was appointed as an employee in a position described in paragraph (1) of that section, as so in effect, between January 1, 1999, and September 30, 2000; and

(3) If such a request was granted, whether or not the waiver or authority, as the case may be, is a grant of authority under subsection (1)(1)(B) of section 8394 of title 5, United States Code, for the waiver of the provisions of such section in order to meet requirements of the Department for appointments to such positions.

(b) INFORMATION ON RESPONSES TO REQUESTS.—The report under subsection (a) shall specify for each request covered by the report—

(1) the response of the Director to such request; and

(2) if such request was granted, whether or not the waiver or authority, as the case may be, is a grant of authority under subsection (1)(1)(B) of section 8394 of title 5, United States Code, for the waiver of the provisions of such section in order to meet requirements of the Department for appointments to such positions.
determining average pay or annuity eligi-
bility under this subchapter.”.

(b) Deposit Not Required.—Section 8422(d) of title 5, United States Code, is amended—

(1) in paragraph (1), by inserting “‘(1)’ before ‘Under such regulations’; and

(2) by adding at the end the following:

“(2) The employer may not, for days of
unusual sick leave credited under section
8415(i);”.

(c) Effective Date.—The amendments made by this section shall take effect 60 days
after the date of the enactment of this Act, and shall apply to individuals who separate from
service after that effective date.

SEC. 203. EVALUATION OF DEPARTMENT OF VET-
ERANS AFFAIRS NURSE MANAGED CLINICS.

(a) Evaluation by the Secretary.—The Secretary of Veterans Affairs shall carry out an evaluation of
the efficacy of the nurse managed health care clinics of the Department of Veterans Affairs.
The Secretary shall complete the evaluation not later than 18 months after the date of the enactment of
this Act.

(b) Clinics To Be Evaluated.—(1) In carrying out the evaluation under subsection
(a), the Secretary shall—

(A) consider a nurse managed health care clinics, including primary care clinics,
acute care clinics, and emergency clinics in three different Veterans Integrated Service
Networks (VISNs) of the Department.

(B) include such clinics, as so established,
that are located in three different Veteran-
ized Integrated Service Networks as of the
commencement of the evaluation.

(c) Matters To Be Evaluated.—In carrying out the evaluation under subsection
(a), the Secretary shall address the follow-
ing:

(1) Patient satisfaction.

(2) Provider experiences.

(3) Costs of care.

(4) Access to care, including waiting time
for care.

(5) The functional status of patients receiv-
ing care.

(d) Any other matters the Secretary con-
siders appropriate.

(e) Report.—Not later than 18 months after the date of the enactment of this
Act, the Secretary shall submit to the Com-
mmittees on Veterans’ Affairs of the Senate and
the House of Representatives a report on the
evaluation carried out under subsection (a).
The report shall address the matters specified
in subsection (c) and include any other
information, and any recommendations, that
the Secretary considers appropriate.

SEC. 204. STAFFING LEVELS FOR OPERATIONS OF
MEDICAL FACILITIES.

(a) In General.—Section 8110(a) is amended
by adding—

(1) in paragraph (1), by inserting “complete care of patients,” in the fifth sentence,
thereof; and

“and in a manner consistent with the policies of the Secretary on
overtime”; and

(2) in paragraph (2)—

(A) by inserting “, including the staffing
required to maintain such capacities,” after
“Department medical facilities”;

(B) by striking “and to minimize” and
inserting “to maintain”;

(C) by inserting before the period the fol-
lowing: “, and to ensure that eligible vet-
erans are provided such care and services in
an appropriate manner.”;

(b) Nationwide Policy on Staffing.—

Paragraph (3) of that section is amended—

(1) in subparagraph (A), by inserting “the adequacy of staff levels for compliance with
the policy established under subparagraph
(C),” after “regarding”; and

(2) by inserting the following new subparagraph:

“(C) The Secretary shall, in consultation with the Under Secretary for Health, estab-
lish a methodology to determine the staffing of
Department medical facilities in order to en-
sure that such facilities have adequate staff
for the provision of veterans of appropriate,
high-quality care. The policy shall take into the account the staffing levels and
mixture of staff skills required for the range of care and services provided veterans in
Department medical facilities.”.

SEC. 205. ANNUAL REPORT ON USE OF AUTHORITY
TO ENHANCE RETENTION OF EXPERIENCED NURSES.

(a) Annual Report.—(1) Subchapter II of
chapter 73 is amended by adding at the end the
following new section:

"§ 7324. Annual report on use of authorities to
enhance retention of experienced nurses

(a) Annual Report.—Not later than January
31 each year, the Secretary, acting through the Under Secretary for Health, shall submit to the
Congress a report on the use during the preceding year of authorities for purposes of retaining experienced nurses in
the Veterans Health Administration, as
follows:

(1) The authorities under chapter 76 of
this title.

(2) The authority under VA Directive
5102.1, relating to the Department of Vet-
erans Affairs nurse qualification standard,
dated November 10, 1999, or any successor
directive.

(3) Any other authorities available to the
Secretary for these purposes.

(b) Report Elements.—Each report under
subsection (a) shall specify for the period
covered by the report the following:

(1) The number of waivers requested
under the authority referred to in subsection
(a)(2), and the number of waivers granted
under that authority, to promote the
Nurse II grade or Nurse III grade under the
Veterans Affairs nurse qualification standard,
dated November 10, 1999, or any successor
directive.

(2) The programs carried out to facilitate
the use of nurse education programs by ex-
erienced nurses, including programs for
flexible scheduling, scholarships, salary
replacement pay, and on-site classes.

(3) The table of sections at the beginning
of chapter 73 is amended by inserting after the
item relating to section 7232 the following
new item:

“7224. Annual report on use of authorities to
enhance retention of experi-
nenced nurses.”.

(b) Initial Report.—The initial report re-
quired under section 7324 of title 38, United
States Code, as added by subsection (a), shall
be submitted in 2002.

SEC. 206. REPORT ON MANDATORY OVERTIME FOR
NURSES AND NURSE ASSISTANTS IN DEPARTMENT OF VET-
ERANS AFFAIRS FACILITIES.

(a) Report.—Not later than 180 days after
the date of the enactment of this Act, the
Secretary of Veterans Affairs shall submit to
the Committees on Veterans’ Affairs of the Senate and the House of Representatives a report on
the mandatory overtime required for the employment of licensed nurses and nurse assistants
providing direct patient care at Department of
Veterans Affairs medical facilities during

(b) Mandatory Overtime.—For purposes of
the report under subsection (a), mandatory
overtime shall consist of any period in which
a nurse or nurse assistant is mandated or
otherwise required, whether directly or indi-
rectly, to work or be in on-duty status in ex-
cess of—

(1) a scheduled workshift or duty period;

(2) 12 hours in any 24-hour period; or

(3) 80 hours in any period of 14 consecutive
days.

(c) Elements.—The report under sub-
section (a) shall include the following:

(1) A description of the mechanism
employed by the Secretary to monitor overtime
of the nurses and nurse assistants referred to
in that subsection.

(3) An assessment of the effects of the man-
datory overtime of such nurses and nurse as-
sistants on patient care, including its con-
tinuing effects on veterans.

(4) Recommendations regarding mecha-
nisms for preventing requirements for
amounts of mandatory overtime in other
emergency situations by such nurses and
nurse assistants.

(5) Any other matters that the Secretary
considers appropriate.

TITLE III—OTHER MATTERS

SEC. 301. ORGANIZATIONAL RESPONSIBILITY
OF THE DIRECTOR OF THE NURSING PROGRAM.

Section 7306(a)(3)(A) of title 38, United States Code, is amended by inserting “, and report
directly to,” after “responsible to”.

SEC. 302. COMPUTATION OF ANNUITY FOR PAR-
T-TIME SERVICE PERFORMED BY CERT-
AIN HEALTH-CARE PROFESSIONAL
S Before April 7, 1986.

Section 7242 is amended—

(1) by redesignating subsection (c) as sub-
section (d); and

(2) by inserting after subsection (b) the fol-
lowing new subsection:

“(c) The provisions of subsection (b) shall
not apply to the part-time service before
April 7, 1986, of a registered nurse, physician
assistant, or expanded-function dental aux-
iliary. In computing the annuity under the
applicable provision of law specified in
subsection (a) of this section by reason of the
preceding sentence, the service described in
that sentence shall be credited as full-time
service.

SEC. 303. MODIFICATION OF NURSE LOCALITY
PAY AUTHORITIES.

Section 7541 is amended—

(1) in subsection (d)(9)—

(A) in subparagraph (A), by striking “be-
ginning rates of” each time it appears;

(B) in subparagraph (B), by striking “be-
inning rates of”;

(C) in subparagraph (C), by striking “be-
inning rates of” each time it appears;

(2) in subsection (d)(10)—

(A) by striking “or” at any other time that
an adjustment in rates of pay is scheduled
to take place under this subsection” in the
first sentence; and

(B) by striking the second sentence; and

(3) in subsection (e)(4)—

(A) in subparagraph (A), by striking “grade
in a”;

(B) in subparagraph (B), by striking “grade of a”; and

(ii) by inserting “and” in the place of “or”;

(C) in subparagraph (D), by striking “grade of a”.

SEC. 304. TECHNICAL AMENDMENTS.

Section 7683(b) is amended by striking “this subsection” each place it appears and inserting “this section”.

SEC. 305. MODIFICATION OF NURSE LOCALITY
PAY AUTHORITIES.

Section 7683(b) is amended by striking “this subsection” each place it appears and inserting “this section”.

SEC. 306. MODIFICATION OF NURSE LOCALITY
PAY AUTHORITIES.
By Mr. HOLLINGS (for himself, Mr. INOUYE, and Mr. DORGAN):

S. 1189. A bill to require the Federal Communications Commission to amend its daily newspaper cross-ownership rules, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. HOLLINGS. Mr. President, I rise to introduce legislation, the Media Ownership Act of 2001, designed to rectify the increasing trend toward consolidation and away from a vibrant exchange of news and information in today's media marketplace. I am joined in this effort by my colleagues, Senators INOUYE and DORGAN, who for years have demonstrated their tireless pursuit of the public interest in the sensible regulation of media ownership.

This legislation is necessary to stem the tide toward concentration in the broadcast and newspaper industries and force a thorough and reasoned examination of the claims that further consolidation will serve the public interest. While the phrase "public interest" may have a vague ring to it, its meaning should be quite clear to the five members of the Federal Communications Commission, which itself observes that "the authority under the Communications Act to promote diversity and competition among media voices." Consequently, any proceeding to revisit the rules of the game to justify permitting such concentration must be ascribed to preserving the balance of power between the networks and local stations that would otherwise be expected under traditional competition analysis.

The reasons for this are simple. Diversity in ownership promotes competition. Diversity in ownership creates opportunities for smaller companies, and local businessmen and women. Diversity in ownership allows creative programming and controversial points of view to find an outlet. Diversity in ownership promotes choices for advertisers. And diversity in ownership and the related restriction on national ownership groups preserves localism. And what in turn does this mean? Millions of Americans regularly watch television by watching their local broadcast stations or reading their daily newspaper. For these citizens, localism still matters.

The proponents of increased consolidation argue that the transformed media landscape demands a deregulatory response. In my view, the burden should rest on those who wish to change the rules of the game to justify those changes. If localism and diversity can be preserved in a consolidated marketplace, prove it. Arguments alone are not persuasive.

Prior to the 1996 Telecommunications Act, the top radio station group owned 39 stations and generated annual revenue of $2.8 billion annually. This consolidation directly undercut diversity and localism in the radio marketplace. A year before Congress passed the Telecommunications Act, the FCC lifted the rules that prohibited broadcast networks from owning and creating their own television programming. This sanctioned consolidation freed the networks to seek economic stakes in, and control over, original programming. As the Washington Post reported last fall in an article entitled, "Even Hits can Miss in TV’s New Economy", "Just as supermarket might reserve its best shelf space for its house brands, the networks have begun to favor their in-house programs over shows created by others, which are often less profitable in the long term." So we see what deregulation has brought us with radio and the market for television programming. Similar consolidation among the broadcast medium should only be allowed after a thorough analysis that justifies permitting such concentration.

The legislation we are introducing today addresses the FCC's lack of enforcement of the newspaper-broadcast cross ownership rule. The FCC's jurisdiction over newspaper broadcast ownership combinations arises from its authority to oversee communications licenses. In practice, the FCC has applied the rule only when there is a transfer or renewal of a broadcast license. So, if a broadcast station owner acquires a newspaper in the same market, there is no FCC review of the cross ownership until the station's license is up for renewal. If a newspaper owner acquires a broadcast station, however, the rule is immediately triggered because the FCC has to approve the transfer of the station's broadcast license for the transaction to go forward. When the rule was adopted, television broadcast licenses were renewed every three years. Accordingly, even when the FCC did not immediately enforce the rule, the combined entity was allowed it would have to comply, either by requesting a waiver, or divesting either the station or newspaper, within a short period of time.

Today, however, broadcast station licenses are only renewed every eighteen months before they become renewable. Today, the top group owns over 1100 stations and generates revenues of almost $3.2 billion annually. This consolidation directly undercut diversity and localism in the radio marketplace. A year before Congress passed the Telecommunications Act, the FCC lifted the rules that prohibited broadcast networks from owning and creating their own television programming. This sanctioned consolidation freed the networks to seek economic stakes in, and control over, original programming. As the Washington Post reported last fall in an article entitled, "Even Hits can Miss in TV’s New Economy", "Just as supermarket might reserve its best shelf space for its house brands, the networks have begun to favor their in-house programs over shows created by others, which are often less profitable in the long term." So we see what deregulation has brought us with radio and the market for television programming. Similar consolidation among the broadcast medium should only be allowed after a thorough analysis that justifies permitting such concentration.

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to the impact of the consequent consolidation on diversity, localism, and competition in the media marketplace. I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1189

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

SECTION 1. FCC DAILY NEWSPAPER CROSS-OWNERSHIP RULE.

(a) IMMEDIATE REVIEW.—

(1) IN GENERAL.—The Federal Communications Commission shall modify section 73.3555(d) of its regulations (47 C.F.R. 73.3555(d)) to provide for the immediate review of a license for any AM, FM, or TV broadcast station held by any party (including all parties under common control) that acquires direct or indirect ownership, operation, or control of a daily newspaper by that party.

(2) NOTICE TO COMMISSION.—The modification under subsection (1) shall require the Commission to provide notice to the applicant for a license for an AM, FM, or TV broadcast station that is held on the date of the enactment of this Act by a party that also, as of that date, has direct or indirect ownership, operation, or control of a daily newspaper.

(b) REMEDIAL ACTION.—The Commission shall further modify section 73.3555(d) of its regulations (47 C.F.R. 73.3555(d)) to require the modification or revocation of the license, or divestiture of such ownership, operation, or control of the daily newspaper, unless the Commission determines that direct or indirect ownership, operation, or control of the daily newspaper by that party will not cause a result described in paragraph (1), (2), or (3) of that subsection.

(c) 6-MONTH DEADLINE FOR COMPLIANCE.—Under the regulations as modified under subsection (b), if the Commission does not make a determination described in subsection (b), the Commission shall require the modification, revocation, or divestiture to be completed not later than the earlier of—

(1) the date that is 180 days after the date on which the Commission issues the order requiring the modification, revocation, or divestiture; or

(2) the date by which the Commission’s regulations require the license to be renewed.

(d) APPLICATION TO EXISTING ARRANGEMENTS.—

(1) IN GENERAL.—In applying its regulations, as modified pursuant to this section, to any license for an AM, FM, or TV broadcast station that is held on the date of the enactment of this Act by a party that also, as of that date, has direct or indirect ownership, operation, or control of a daily newspaper, the Commission—

(A) may grant a permanent or temporary waiver from the modification, revocation, or divestiture requirements of the modified regulation if the Commission determines that the waiver is consistent with the principles of competition, diversity, and localism in the public interest; and

(B) shall apply the modified regulation so as to require modification, revocation, or divestiture in circumstances in which section 73.3555(d) of the Commission’s regulations (47 C.F.R. 73.3555(d)) does not apply because of Note 4 to that section.

(2) NOTICETO COMMISSION.—A licensee of a license described by paragraph (1) shall notify the Commission that the license is covered by paragraph (1),

SEC. 2. REVIEW BASED ON TRANSACTIONS.

The Federal Communications Commission shall further modify section 73.3555 of its regulations (47 C.F.R. 73.3555) so that the Commission will determine compliance with section 73.3555(d) of its regulations, as modified by the Commission pursuant to section 1 of this Act, whenever a party (including all parties under common control) that holds a license for an AM, FM, or TV broadcast station acquires direct or indirect ownership, operation, or control of a daily newspaper by that party.

SEC. 3. FCC TO JUSTIFY REPEAL OR MODIFICATION OF REGULATIONS UNDER REGULATORY REFORM.

Section 11 of the Communications Act of 1934 (47 U.S.C. 161) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) RELAXATION OR ELIMINATION OF MEDIA OWNERSHIP RULES.—If, as a result of a review under subsection (a)(1), the Commission makes a determination under subsection (a)(2) with respect to its regulations governing multiple ownership (47 C.F.R. 73.3555), then—

(1) if the Commission determines that direct or indirect ownership, operation, or control of a newspaper by that party will not cause a result described in paragraph (1), (2), or (3) of that subsection; or

(2) the date by which the Commission’s regulations require the license to be renewed.

(d) APPLICATION TO EXISTING ARRANGEMENTS.—

(1) IN GENERAL.—In applying its regulations, as modified pursuant to this section, to any license for an AM, FM, or TV broadcast station that is held on the date of the enactment of this Act by a party that also, as of that date, has direct or indirect ownership, operation, or control of a daily newspaper, the Commission—

(A) may grant a permanent or temporary waiver from the modification, revocation, or divestiture requirements of the modified regulation if the Commission determines that the waiver is consistent with the principles of competition, diversity, and localism in the public interest; and

(B) shall apply the modified regulation so as to require modification, revocation, or divestiture in circumstances in which section 73.3555(d) of the Commission’s regulations (47 C.F.R. 73.3555(d)) does not apply because of Note 4 to that section.

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(1) if the Commission determines that direct or indirect ownership, operation, or control of a newspaper by that party will not cause a result described in paragraph (1), (2), or (3) of that subsection; or

(2) the date by which the Commission’s regulations require the license to be renewed.

(d) APPLICATION TO EXISTING ARRANGEMENTS.—

(1) IN GENERAL.—In applying its regulations, as modified pursuant to this section, to any license for an AM, FM, or TV broadcast station that is held on the date of the enactment of this Act by a party that also, as of that date, has direct or indirect ownership, operation, or control of a daily newspaper, the Commission—

(A) may grant a permanent or temporary waiver from the modification, revocation, or divestiture requirements of the modified regulation if the Commission determines that the waiver is consistent with the principles of competition, diversity, and localism in the public interest; and

(B) shall apply the modified regulation so as to require modification, revocation, or divestiture in circumstances in which section 73.3555(d) of the Commission’s regulations (47 C.F.R. 73.3555(d)) does not apply because of Note 4 to that section.

(2) NOTICETO COMMISSION.—A licensee of a license described by paragraph (1) shall notify the Commission that the license is covered by paragraph (1),

SENATE CONCURRENT RESOLUTION 60—EXPRESSING THE SENSE OF THE CONGRESS THAT THE CONTINUED PARTICIPATION OF THE RUSSIAN FEDERATION IN MEETINGS OF THE GROUP OF EIGHT COUNTRIES MUST BE CONDITIONED ON THE RUSSIAN FEDERATION'S VOLUNTARY ACCEPTANCE AND ADHERENCE TO THE NORMS AND STANDARDS OF DEMOCRACY.

Mr. HELMS (for himself, Mr. SMITH of Oregon, Mr. LOTT, and Mr. ALLEN) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 60

Whereas the Group of Seven (G-7) was established as a forum of the heads of state or heads of government of the world’s largest, industrialized democracies to meet annually in a summit meeting;

Whereas those countries which are members of the Group of Seven are pluralistic societies, with democratic political institutions and practices dedicated to the promotion of universally recognized standards of human rights, individual liberties, and rule of law;

Whereas, in 1991 and subsequent years, the G-7 invited the Russian Federation to a postsummit dialogue, and in 1998 the G-7 formally invited the Russian Federation to participate in an annual meeting of the Group of Eight (G-8);
Whereas the invitation to then President Yeltsin of the Russian Federation to participate in these annual summit meetings was to reinforce his commitment to democratization and economic reform, recognition that the fact that the Russian Federation’s economy was not of the size and character of those of the G-7 economies and that its government’s commitment to democratic principles was uncertain;

Whereas free news media are fundamental to the functioning of a democratic society and expression of individual liberties and such freedoms can exist only in an environment that is free of state control of the press, free of state censorship or official coercion of any kind, and that is protected and guaranteed by the rule of law;

Whereas the Government of the Russian Federation has undertaken a series of actions hostile and destructive toward independently operated media enterprises and journalists, particularly those news outlets and journalists that have been critical of government policies and government actions;

Whereas the Government of the Russian Federation continues its indiscriminate war against the people of Chechnya, a war in which Russian forces have caused the deaths of countless innocent civilians, caused the displacement of well over 400,000 innocent individuals, forcibly relocated refugee populations, and have committed widespread atrocities, including summary executions, torture, and rape;

Whereas the Department of State’s Annual Report on International Religious Freedom 2000 concluded that the Government of the Russian Federation “does not always respect [its Constitution’s] provision for equality of religious organizations, and some local authorities imposed restrictions on some religious minority groups”;

Whereas the continued participation of the Government of the Russian Federation in the Group of Eight must be conditioned on the former’s acceptance of and adherence to the norms and standards of democracy; and

Whereas the next summit meeting of the G-8 countries will take place from July 20 to July 23, 2002 in Genoa, Italy: Now, therefore, be it:

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the President should use the Genoa summit meeting of the G-8 to condition future G-8 meetings upon a clear and unambiguous demonstration of commitment by the Government of the Russian Federation to adhere here to the norms and standards of democracy and fundamental human rights, and that this must include—

(a) an end to Russian military operations in Chechnya and the initiation of genuine negotiations for a just and peaceful resolution of the conflict in that region with the democratically elected Government of Chechnya led by Aslan Maskhadov;

(b) granting international missions immediate and full and unimpeded access into Chechnya and surrounding regions so that they can provide humanitarian assistance and investigate alleged atrocities and war crimes;

(c) respect for the existence of a free, unfettered, and independent media and the free exchange of ideas and views, including the freedom of journalists to publish opinions and not fear of censorship or punishment, the right of people to receive news without government interference and harassment, and opportunities for private ownership of media enterprises;

(d) freedom of all religious groups to practice their faith in the Russian Federation, without government interference on the rights and the peaceful activities of such religious organizations; and

(2) the President and the Secretary of State should take all necessary steps to suspend the participation of the Russian Federation in meetings of the G-8 countries after the Genoa summit meeting should the Government of the Russian Federation fail to adhere to the norms and standards described in paragraph (1); and

(3) the President and Secretary of State are requested to convey to appropriate officials of the Government of the Russian Federation, including the President, the Prime Minister, and the Minister of Foreign Affairs, and appropriate officials of the G-7 countries this expression of the views of Congress.

AMENDMENTS SUBMITTED AND PROPOSED

SA 981. Mr. JOHNSON submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table.

SA 982. Mr. JOHNSON submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 983. Mr. SARBANES submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 984. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 985. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 986. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 987. Ms. STABENOW (for herself, Mr. FITZGERALD, Mr. LEVIN, Mr. DURBIN, Mr. DAYTON, Mr. FEINGOLD, Mr. SCHUMER, Mr. KOLNICKI, Mr. KOHL, Mr. CLINTON, Mr. BAYH, and Mr. VOINOVICH) proposed an amendment to the bill H.R. 2311, supra.

SA 988. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 989. Mr. SMITH, of New Hampshire submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 990. Mr. SMITH, of New Hampshire submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 991. Mr. JOHNSON submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, line 18, after “expended” insert “, of which $2,000,000 shall be made available to the James River Water Development District, South Dakota, for completion of an environmental impact statement for the channel restoration and improvement project authorized by section 401(b) of the Water Resources Development Act of 1986 (100 Stat. 4128)”.

SA 992. Mr. JOHNSON submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending

TEXT OF AMENDMENTS

SA 981. Mr. JOHNSON submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, line 18, after “expended” insert “, of which $2,000,000 shall be made available to the James River Water Development District, South Dakota, for completion of an environmental impact statement for the channel restoration and improvement project authorized by section 401(b) of the Water Resources Development Act of 1986 (100 Stat. 4128)”.

SA 992. Mr. JOHNSON submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending
September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 13, line 7, after "expended," insert the following: "of which $18,500,000 shall be available for the Mid-Dakota Rural Water Project."

SA 983. Mr. SARBANES submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, line 18, before the period, insert the following: "Provided, that using $100,000 of the funds provided herein for the States of Maryland, Virginia, Pennsylvania and the District of Columbia, the Secretary of the Army, acting through the Chief of Engineers, is directed to conduct a Chesapeake Bay shoreline erosion study, including an examination of management measures that could be undertaken to address the sediments behind the dams on the lower Susquehanna River."

SA 984. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 28, before the period on line 19, insert the following: "Provided further, within the amounts herein appropriated, Western Area Power Administration is directed to conduct a technical analysis of the costs and feasibility of transmission expansion methods and technologies. WAPA shall publish a study by July 31, 2002 that contains recommendations of the most cost-effective methods and technologies to enhance electricity transmission from lignite and wind energy: Provided further, that these funds shall be non-reimbursable. Provided further, that these funds shall be available until expended."

SA 985. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 3, line 3, after "expended," insert the following: "of which not less than $50,000 shall be available for the Mid-Dakota Rural Water Project."

SA 986. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. 2. NO MINE HARBOR TECHNICAL CORRECTIONS.

Section 13(1) of Public Law 106-53 (the Water Resources Development Act of 1999) is amended by—

(A) striking "$25,651,000" and inserting in its place "$39,000,000"; and
(B) striking "$20,192,000" and inserting in its place "$33,541,000."

SA 987. Ms. STABENOW (for herself, Mr. FITZGERALD, Mr. LEVIN, Mr. DURBIN, Mr. DAYTON, Mr. FEINGOLD, Mr. SCHUMER, Mr. KOHL, Mr. WELSTON, Mr. LEAHY and Mr. VONNOVICI) proposed an amendment to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, line 18, before the period, insert the following: "of which such sums as are necessary shall be used by the Secretary of the Army to conduct and submit to Congress a study that examines the known and potential environmental effects of oil and gas drilling activity in the Great Lakes (including effects on the shorelines and water of the Great Lakes): Provided, That during the fiscal year for which this Act makes funds available and during each subsequent fiscal year, no Federal or State permit or lease shall be issued for oil and gas slant, directional, or offshore drilling in or under 1 or more of the Great Lakes (including in or under any river flowing into or out of the lake)."

SA 988. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 8, line 7, before the colon, insert the following: "of which not more than $6,173,000 shall be made available for the Apalachicola, Chattahoochee, and Flint Rivers, Georgia, Florida, and Alabama (of which none of the funds shall be used for dredging in the State of Florida)".

SA 989. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 8, line 7, before the colon, insert the following: "Provided further, That the amounts made available under this heading for the Apalachicola, Chattahoochee, and Flint Rivers, Georgia, Florida, and Alabama (other than amounts made available for specific hydrologic reconnections and slough restoration) shall be expended only for activities at or north of the Jim Woodruff Lock and Dam)."

SA 990. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 11, between lines 16 and 17, insert the following:

SEC. 3. HABITAT OF ENDANGERED AND THREATENED ENDEMIC SPECIES OR SPORTFISH.

None of the funds made available by this Act may be used to disrupt the critical habitat of endangered species or threatened species (as those terms are defined in section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532)) or the habitat of sportfish.

SA 991. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 11, between lines 16 and 17, insert the following:

SEC. 4. DEPOSIT OF DREDGED MATERIAL ON WETLAND.

None of the funds made available by this Act may be used to deposit dredged material on wetland subject to a permit issued under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344).

SA 992. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, line 25, strike "$1,833,263,000" and insert "$1,633,263,000."

On page 8, at the end of line 24, before the period, insert the following: "Provided further, That none of the funds shall be used for dredging in the State of Florida)".

SA 993. Mr. REED submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 8, at the end of line 24, before the period, insert the following: "Provided further, That none of the funds herein appropriated shall be available for the conduct of activities related to the selection, by the Secretary of the Army in cooperation with the Environmental Protection Agency, of a permanent disposal site for environmentally sound dredged material from navigational dredging projects in the State of Rhode Island."

SA 994. Mr. SMITH of New Hampshire submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 3, after line 24, add the following: "That the project at the University of New Hampshire authorized under section 8(b) of the Water Resources Development Act of 1988 (33 U.S.C. 2214(b)), $1,000,000."

SA 995. Mr. SMITH of New Hampshire submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 3, after line 24, add the following: "That the project at the University of New Hampshire authorized under section 8(b) of the Water Resources Development Act of 1988 (33 U.S.C. 2214(b)), $1,000,000."

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On page 2, line 18, before the period, insert the following: “...of which not less than $300,000 shall be used for study and design of the project at Seabrook Harbor, New Hampshire, as required under title 60 U.S.C. 426 et seq.”.

SA 996. Mr. SMITH of New Hampshire submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 8, line 7, before the colon, insert the following: “Provided further, That of the appropriated, not less than $200,000 shall be provided for corridor development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 28, before the period on line 19, insert the following: “...and any other purposes...”.

SA 997. Mr. CONRAD (for himself, Mr. DORGAN, and Mr. BAUDES) submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 8, line 7, before the colon, insert the following: “...of which not less than $400,000 shall be used to carry our maintenance dredging of the Sagamore Creek Channel, New Hampshire”.

SA 998. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 1. RESTRICTIONS.—The amount rescinded pursuant to this section shall be deposited into the account established under section 3113(d) of title 31, United States Code, to reduce the public debt.

(b) DEBT REDUCTION.—The amount rescinded pursuant to this section shall be deposited into the account established under section 3113(d) of title 31, United States Code, to reduce the public debt.

(c) DEDUCIBLE.—The term “deductible” means the amount of the rescission described in this Act.

SA 1000. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 8, line 7, before the colon, insert the following: “...of which not less than $5,175,000 shall be made available for the Apalachicola, Chattahoochee, and Flint Rivers, Georgia, Florida, and Alabama...”.

SA 1001. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 11, between lines 16 and 17, insert the following:

SEC. 1. IMPACT OF NAVIGATIONAL DREDGING ON LOCAL ECONOMIES OF FLORIDA.

(a) FINDING.—Congress finds that the impact of navigational dredging on the economies of local areas in the State of Florida, including oyster harvesting, shrimp production, blue crab production, commercial sportfishing, and recreational activities; and to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the analysis.

SEC. 2. IMPACT OF NAVIGATIONAL DREDGING ON WILDLIFE AND HABITAT.

None of the funds made available by this Act may be used to conduct navigational dredging until the Secretary of the Army—

(1) completes an assessment of the cumulative impact of navigational dredging on wildlife and habitat; and

(2) submits to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the assessment.

SEC. 3. IMPACT OF NAVIGATIONAL DREDGING ON THE WATERS OF THE APALACHICOLA RIVER.

None of the funds made available by this Act may be used to conduct navigational dredging until the Secretary of the Army—

(a) completes a study of the impact of navigational dredging on the Apalachicola River; and

(b) submits to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the assessment.

SEC. 4. IMPACT OF NAVIGATIONAL DREDGING ON THE WATERS OF THE CHATTAHOOCHEE RIVER.

None of the funds made available by this Act may be used to conduct navigational dredging until the Secretary of the Army—

(a) completes a study of the impact of navigational dredging on the Chattahoochee River; and

(b) submits to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the assessment.

SEC. 5. IMPACT OF NAVIGATIONAL DREDGING ON THE WATERS OF THE FLINT RIVER.

None of the funds made available by this Act may be used to conduct navigational dredging until the Secretary of the Army—

(a) completes a study of the impact of navigational dredging on the Flint River; and

(b) submits to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the assessment.

SEC. 6. IMPACT OF NAVIGATIONAL DREDGING ON THE WATERS OF THE APalachicola RIVER.

None of the funds made available by this Act may be used to conduct navigational dredging until the Secretary of the Army—

(a) completes an analysis of the impact of navigational dredging on the Apalachicola River; and

(b) submits to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the assessment.

SEC. 7. IMPACT OF NAVIGATIONAL DREDGING ON THE WATERS OF THE CHATTAHOOCHEE RIVER.

None of the funds made available by this Act may be used to conduct navigational dredging until the Secretary of the Army—

(a) completes an analysis of the impact of navigational dredging on the Chattahoochee River; and

(b) submits to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the assessment.

SEC. 8. IMPACT OF NAVIGATIONAL DREDGING ON THE WATERS OF THE FLINT RIVER.

None of the funds made available by this Act may be used to conduct navigational dredging until the Secretary of the Army—

(a) completes an analysis of the impact of navigational dredging on the Flint River; and

(b) submits to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the assessment.

SEC. 9. IMPACT OF NAVIGATIONAL DREDGING ON THE WATERS OF THE APalachicola RIVER.

None of the funds made available by this Act may be used to conduct navigational dredging until the Secretary of the Army—

(a) completes an analysis of the impact of navigational dredging on the Apalachicola River; and

(b) submits to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the assessment.

SEC. 10. IMPACT OF NAVIGATIONAL DREDGING ON THE WATERS OF THE CHATTAHOOCHEE RIVER.

None of the funds made available by this Act may be used to conduct navigational dredging until the Secretary of the Army—

(a) completes an analysis of the impact of navigational dredging on the Chattahoochee River; and

(b) submits to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the assessment.

SEC. 11. IMPACT OF NAVIGATIONAL DREDGING ON THE WATERS OF THE FLINT RIVER.

None of the funds made available by this Act may be used to conduct navigational dredging until the Secretary of the Army—

(a) completes an analysis of the impact of navigational dredging on the Flint River; and

(b) submits to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the assessment.

SEC. 12. IMPACT OF NAVIGATIONAL DREDGING ON THE WATERS OF THE APalachicola RIVER.

None of the funds made available by this Act may be used to conduct navigational dredging until the Secretary of the Army—

(a) completes an analysis of the impact of navigational dredging on the Apalachicola River; and

(b) submits to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the assessment.

SEC. 13. IMPACT OF NAVIGATIONAL DREDGING ON THE WATERS OF THE CHATTAHOOCHEE RIVER.

None of the funds made available by this Act may be used to conduct navigational dredging until the Secretary of the Army—

(a) completes an analysis of the impact of navigational dredging on the Chattahoochee River; and

(b) submits to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the assessment.

SEC. 14. IMPACT OF NAVIGATIONAL DREDGING ON THE WATERS OF THE FLINT RIVER.

None of the funds made available by this Act may be used to conduct navigational dredging until the Secretary of the Army—

(a) completes an analysis of the impact of navigational dredging on the Flint River; and

(b) submits to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the assessment.
On page 33, after line 25, add the following:

SEC. 312. (a) IN GENERAL.—The Secretary of Energy shall provide for the management of environmental matters (including planning and budgetary activities) with respect to the Paducah Gaseous Diffusion Plant, Kentucky, through the Assistant Secretary of Energy for Environmental Management.

(b) REQUIREMENTS.—(1) In meeting the requirement in subsection (a), the Secretary shall provide for direct communication between the Assistant Secretary of Energy for Environmental Management and the head of the Paducah Gaseous Diffusion Plant on the matters covered by that subsection.

(2) The Assistant Secretary shall carry out activities under this section in direct consultation with the head of the Paducah Gaseous Diffusion Plant.

SA 1006. Mr. SMITH of New Hampshire submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, line 6, before the period, insert "of which $500,000 shall be made available to conduct planning, technical, design, feasibility and other analyses under authority provided by Public Law 92-199 to evaluate the feasibility of installation of electric irrigation water pumping facilities at the Savage Rapids Dam on the Rogue River, Oregon."

NOTICES OF HEARINGS
COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HARKIN. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will meet on July 17, 2001, in SR-328A at 9:00 a.m. The purpose of this hearing will be to discuss the next Federal farm bill.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HARKIN. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will meet on July 19, 2001, in SR-328A at 9:00 a.m. The purpose of this hearing will be to discuss the nutrition title of the next Federal farm bill.

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, would like to announce that the Committee on Indian Affairs will meet on July 18, 2001, at 9:30 a.m., in room 485 Russell Senate Building to conduct a hearing on "Indian Tribal Good Governance Practices As They Relate to Tribal Economic Development."

Those wishing additional information may contact committee staff at 220-2251.

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on July 19, 2001, at 10:00 a.m., in room 485 Russell Senate Building to conduct a business meeting on pending committee business.

Those wishing additional information may contact committee staff at 220-2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Tuesday, July 17, 2001, at 9:30 a.m., in open session to continue to receive testimony on ballistic missile defense programs and policies, in review of the Defense authorization request for fiscal year 2002.

The PRESIDENT pro tem. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet Tuesday, July 17, 2001, at 9:30 a.m., on pending committee business in SR-216 of the Capitol.

The PRESIDENT pro tem. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, July 17, at 9:30 a.m., to conduct a hearing. The committee will receive testimony on legislative proposals related to reducing the demand for petroleum products in the light duty vehicle sector including titles III and XII of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001; title VII of S. 388, the National Energy Security Act of 2001; S. 883, the Energy Independence Act of 2001; S. 1653, Hydrogen Future Act of 2001; and S. 1006, Renewable Fuels for Energy Security Act of 2001.

The PRESIDENT pro tem. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open Executive Session during the session of the Senate on Tuesday, July 17, 2001.

The PRESIDENT pro tem. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a nominations hearing on Tuesday, July 17, 2001, at 10 a.m., in Dirksen 226.

Panel I: Senator Tim Hutchinson of Arkansas, Senator Blanche Lincoln of Arkansas, Representative James Sensenbrenner, Jr. of Wisconsin, Representative John Conyers of Michigan.

Panel II: Asa Hutchinson, of Arkansas, to be Administrator of Drug Enforcement.

The PRESIDENT pro tem. Without objection, it is so ordered.
ORDERS FOR WEDNESDAY, JULY 18, 2001

Mr. DASCHLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m., Wednesday, July 18, 2001, at 9:30 a.m., with Senators permitted to speak for up to 10 minutes each, with the following exceptions: Senator Lott, or his designee, 9:30 a.m. to 10:30 a.m.

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

PROGRAM

Mr. DASCHLE. Mr. President, on Wednesday, the Senate will convene at 9:30 a.m. with 1 hour of morning business under the control of Senator Lott, or his designee, for memorials on the 1-year anniversary of the death of Senator Paul Coverdell. At 10:30 a.m., the Senate will resume consideration of the能源 and Water Development Appropriations Act. Rollcall votes on amendments to the Energy and Water Development Appropriations Act are expected throughout the day on Wednesday.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. DASCHLE. Mr. President, if there is no other business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

NOMINATIONS

Executive nominations received by the Senate July 17, 2001:

SOCIAL SECURITY ADMINISTRATION

JO ANNE BARNHART, OF DELAWARE, TO BE COMMISSIONER OF SOCIAL SECURITY FOR THE TERM EXPiring JANUARY 19, 2007, VICE KENNETH S. APPEL, TERM EXPIRED.

DEPARTMENT OF STATE

DANIEL R. COATS, OF INDIANA, TO BE AMBASSADOR EXTRAORDINARY AND PLenIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERAL REPUBLIC OF GERMANY.

MAGE T. RUFINA, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLenIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MALAYSIA.

DEPARTMENT OF VETERANS AFFAIRS

JOHN A. GAUBE, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (INFORMATION AND TECHNOLOGY), VICE DAVID E. LEWIS, REsIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601 AND TO BE APPOINTED AS CHIEF OF STAFF, UNITED STATES AIR FORCE UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTION 601:

To be general

GEN. JOHN F. JUMPER, 0000

IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE SERVICE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. MARYLIN J. MURPHY, 0000

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE SERVICE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. THOMAS W. BRES, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JOHN B. SYLVESTER, 0000

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE Corps TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 506:

To be brigadier general

COL. KEVIN M. SANDKUIJLE, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

BRIG. ADM. JAMES C. DAWSON JR., 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. WALTER F. DORAN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. TIMOTHY J. KEATING, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. MICHAEL G. MULLEN, 0000

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Madam President, I ask unanimous consent that Lauren Banks, who is a member of Senator Harkin’s staff, be granted the privilege of the floor during the Senate’s consideration of the bankruptcy bill.
Ms. KAPTUR. Mr. Speaker, I am pleased to recognize the 100th anniversary of the East Toledo Family Center in Toledo, Ohio. Began by a cadre of East Toledoans who felt great pride about their neighborhood and wanted to further enhance opportunities for its residents, the East Toledo Family Center was born in 1901. It has established itself as a stalwart beacon in a community which saw continued and great change in its century of existence.

Evolving with the neighborhood and its changing needs, the center has grown into a full service neighborhood center with 40,000 square feet of space providing educational, recreational, and health programs, including preschool, school age childcare, youth enrichment, programs for teens to learn about themselves and their environment, human services case management on site, a family health clinic offering family and maternal health care, and a police substation. It also coordinates with community organizations offering special programs on site.

Amazingly, the East Toledo Family Center serves more than 10,000 people each year. Its longtime former director Warren Densmore, who led the center through unprecedented growth for 38 years, encapsulated the feeling and vision of the East Toledo Family Center: "We want to create a feeling of neighborhood by helping individuals and groups to be interested in one another and to help each other try to better the conditions around themselves physically, culturally, socially, and morally. We try to develop our own leadership, so that when a community problem or need arises we can go to work on it, individually and as groups."

It is a philosophy which is a guiding principle yet today. The East Toledo Family Center is a member of the community, of the community, and for the community. Therein lies both its strength and its success. The East Toledo neighborhood is center stage in the planning and implementing of all of the center's opportunities. Its mission is to "provide quality programs and services to enhance the lives of individuals and families by meeting the emerging needs of our community. We will accomplish this by assisting seniors in maintaining independent lifestyles; preparing young people to do well in school, developing and fostering good character, and helping them become productive members of society; building strong family units within the community; coordinating services and cooperating with other agencies to improve the quality of life in the community." Anyone who has visited the East Toledo Family Center can attest to how well it lives its mission. It is truly a jewel in our city's crown.

Mr. Speaker, I commend the following article to my colleagues:

Whereas, the exemplary work of the staff of the Times Reporter earned them distinguished recognition at the Annual Associated Press of Ohio Awards; and,

Whereas, staff members received high marks for their coverage of the tragic murder of the missing teenager, Elizabeth Reiser in the breaking news category; and,

Whereas, contributing to this successful effort were Benjamin Duer, Joe Mizer, Renee Brown, Kathy Vaughan, Lee Morrison, and Kate Winther; and,

Whereas, also recognized for their accomplishments were Pat Burk, for his photo essay titled, "Sweet Scream for Steve Long," for his editorial column titled "Part of the job";

Therefore, I ask that my colleagues join me in recognizing the impressive accomplishments of these talented individuals that have brought honor and pride to their family, friends and community.

IN HONOR OF MR. WILLIAM J. ROSENDAHL

HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 17, 2001

Mr. KUCINICH. Mr. Speaker, I rise today to honor and recognize perhaps the most well-liked and respected man on the California political scene, Mr. William J. Rosendahl, on a lifetime of distinguished achievements and dedicated public service.

Mr. Rosendahl, since 1987, has produced over 2,000 shows that focus on political and social commentary. Now serving as Regional Vice President of Operations for Adelphia Communications, Mr. Rosendahl has served in many other capacities throughout his distinguished career. His civic achievements and public involvement have led him to countless posts during the past few years, including Chairman of the California Cable Television Association, member of the boards of the California Channel, Cable Positive, and the League of Women Voters. In his current professional capacity, Mr. Rosendahl oversees day-to-day operations for 1.2 million customers and more than 3,000 employees. He produces and occasionally hosts public affairs programming that discuss political and social issues of the day.

As moderator of several talk-show programs, Mr. Rosendahl has had the opportunity to host hundreds of political leaders and activists, including Vice President Al Gore, Ralph Nader, James Carville, and Charles Keating Jr. His sincere and heartfelt questions have gained him the respect and admiration from people at both ends of the political spectrum. Mr. Rosendahl's deep commitment and passionate activism to social justice and equality is clear evidence to his strong integrity. He tries to give everyone, regardless of one's creed, age, race, gender, or sexual orientation, a strong world voice. He has spent many hours tackling global issues and volunteering on senatorial and gubernatorial campaigns.

Mr. Speaker, please join me in honoring not only a fine and distinguished producer, but a respected American, Mr. William J. Rosendahl. His contributions to society have touched countless people.

IN RECOGNITION OF GLORIA WALKIC

HON. CAROLYN MCCARTHY
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 17, 2001

Mrs. MCCARTHY of New York. Mr. Speaker, I rise in recognition of Gloria Wallic, a highly respected and influential child care advocate who recently announced her retirement from the Child Care Council of Nassau, Inc. In her 23 years as Chief Executive Officer, Gloria was the voice of child care in Nassau County. She made the Council the leading agency for child care by sponsoring Federal Child & Adult Care Food Program in New York State by a not-for-profit agency and establishing the Child Care Switchboard, an early child care referral service.

Gloria received her undergraduate degree from Brown University and an M.A. in Policy Analysis from the New School of Social Research, now New School University. She began her work in Child Care when she chaired the Policy Advisory Committee of Head Start in her hometown of Rockville Centre. She then helped to establish the Rosa Lee Young Child Care Center where she served as Board President for six years.

While serving as CEO of the Child Care Council of Nassau, Gloria worked diligently on various committees to improve the quality of child care in New York. In 1984, she was appointed by Governor Cuomo to the New York State Commission on Child Care. Later, in 1988, as a member of the Nassau County Task Force on Day Care, Gloria helped to create the first salary enhancement program in America for teachers in the child care field. In 1997, she was appointed to the Nassau County Legislature's Commission on Child Care, which was created as an out-growth of her advocacy.

Throughout her career, Gloria has received numerous awards from elected officials, outreach organizations such as the Health & Welfare Council and the United Way, and child care providers for her commendable leadership and advocacy on behalf of parents and their children.
Mr. TRAFICANT. Mr. Speaker, I want to pay tribute to a growing legend in American talk radio. Conservative talk show host, Rush Limbaugh, who many know simply as Rush, has brought America back from ultra-liberalism to a more moderate, mainstream approach to politics and a way of life.

Rush recently received the largest contract ever for a radio personality. He is deserving of the contract and also deserves to be commended for what he has done for this country. Rush was a voice of reason and had a tremendous influence on the passage of my reforms of the Internal Revenue Service. Those reforms have had a significant impact on the lives of Americans everywhere, saving their properties and their homes, providing for their day in court in a civil tax case, and shifting the burden of proof in a civil tax case from the taxpayer to the IRS. The law reduced property seizures from 10,037 to 151 in one year and dramatically reduced wage attachment and property liens. That law, which saves the homes of over 10,000 Americans every year, may not have become a reality without the help of one man’s voice, heard by millions.

Though there are many who disagree with the positions he takes on tough issues, Rush provokes thought and debate on the issues that will shape the future of our great nation. He has a tremendous responsibility with the number of Americans who seek out his opinions, and he deserves credit for taking that responsibility very seriously.

Rush Limbaugh is making a difference, and I thank him for his contributions to the spirit of American political debate.

IN REMEMBRANCE OF INA MARIE LEE

HON. MARCY KAPTUR
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 17, 2001

Ms. KAPTUR. Mr. Speaker, I rise to commemorate the life of a Toledoan and American of note. Ina Marie Lee. Miss Lee passed away to commemorate the life of a Toledoan and American of note. Ina Marie Lee. Miss Lee passed away reciting a wonderful role model for others, according to her longtime friend and nurse Mary Lou Leonard. Believed to be a descendant of General Robert E. Lee, Ina joined the Army on June 10, 1918. As a distinguished veteran, she was a member of the American Legion Argonne Post 545. She was also a member of the Toledo Chapter of the Order of the Eastern Star, the Toledo Hospital Alumni Association, the Idlewood Rebekah Lodge No. 565 in Jersey City, and the Westgate Chapel in Toledo. She was several times the Grand Marshall in Toledo parades and was featured on NBC’s Today Show on two occasions. It was my personal honor to join Ina at a recent nurses reunion in Toledo where we unveiled a statue to honor nurses and their contributions to our community.

These few words on the CONGRESSIONAL RECORD cannot do justice to this most remarkable of women and her life well-lived. Perhaps the words of her friend, Ms. Leonard, say it best. Ina Marie Lee “was a fun-loving, happy, caring person. She loved live life, she loved people, and she loved helping people.” No greater tribute can there be than to have been recognized and appreciated as a friend, colleague, and supporter. We extend to her sister, Genetta Grau, and her niece and nephews our heartfelt condolences. At the same time, we celebrate a truly incredible life and honor her memory by trying to live in its example.

IN HONOR OF THE CLEVELAND HEARING AND SPEECH CENTER

HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 17, 2001

Mr. KUCINICH. Mr. Speaker, I rise today to honor the great work of the Cleveland Hearing and Speech Center in spreading awareness of hearing loss issues and in providing services to those who are affected by hearing loss. Founded by President Garfield’s daughter-in-law, Helen Newell Garfield, in 1921 the CHSC is the oldest and largest speech center in the United States and the only nonprofit organization in Northeast Ohio dedicated solely to meeting the hearing, speech, and deafness needs of the community.

To observe its 80th year anniversary this year CHSC will partner with 14 Cleveland attractions for the first annual Communication Celebration. American Sign Language interpreters will be placed at each of the following attractions: The Children’s Museum of Cleveland, Cleveland Botanical Garden, The Cleveland Center for Contemporary Art, Cleveland Metroparks Natural History Museum, Cleveland Metroparks Zoo, The Cleveland Museum of Art, The Cleveland Museum of Natural History, Great Lakes Science Center, The Health Museum of Cleveland, Lake View Cemetery, The Nature Center at Shaker Lakes, Rock & Roll Hall of Fame & Museum, Steamship William G. Mather Museum, and Western Reserve Historical Society. The event will serve as the culmination of National Deaf Awareness Week.

This is an issue that affects many people. More than 28 million Americans have a hearing loss and approximately 2 million of them are profoundly deaf. One of every 22 infants has hearing problems and one of every 1000 infants is born deaf. But, unfortunately, only an estimated 20 percent of people who could benefit from hearing aids have them. Nonetheless, communications skills are the number one predictor of academic success for children and the number one predictor of success at the workplace for adults.

Mr. Speaker, please join me in applauding the efforts of this great organization in spreading awareness and for the hard work it has contributed to this cause.

RECOGNIZING MIRA ROSENFELD SENNETT

HON. CAROLYN McCARTHY
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 17, 2001

Mrs. McCARTHY of New York. Mr. Speaker, I rise in recognition of Mira Rosenfeld Sennett, a noted educator in the Jewish community of Nassau County and a resident of Atlantic Beach, Long Island.

Since she began her career three decades ago at the Brandeis Day School, Mira has been teaching and supervising special education in the New York school system while simultaneously pursuing her love of Jewish education. Over the past 30 years, she has taught at the Hebrew High School and the State University at Stony Brook and directed the Five Towns School of Special Education for the Special Child, Temple Beth El Religious School and the Hebrew School at the Jewish Center of Atlantic Beach.

Mira is known for her love of community and Jewish learning, and she has shared these qualities with countless others. For years, Mira has organized adult education classes and book reviews for members of our community. Not only has she participated in community events, but she has brought unique ideas to life by teaching others about Judaism while sharing her own experiences. She has led youth groups to Israel and Europe. She is a former executive board member of Hadassah, UAJ, and USY and served as president of the Five Towns Jewish Council and Vice President of Jewish Women International for the greater New York region.

On the occasion of Israel’s 50th anniversary, Mira was recognized by the Conference of Jewish Organizations of Nassau County as one of 50 residents who make a difference. Additionally, she received the Chancellor’s Award for Excellence in Teaching from SUNY.

Mira emigrated from Israel in 1958. She received her undergraduate degree in Supervision and Administration from C.W. Post and a postgraduate degree in Special Education and an MS in History and Jewish Education from Columbia University and the Jewish Theological Seminary.
Mira feels that her greatest accomplishment and dearest reward is her family: her husband Herschel, her children Avery and Robyn Rosenfeld, Drs. Tierry and Melissa Abitol, Rosalie Sennett and Jonathan and Marianne Sennet, and her grandchildren David, Lauren, Dani, Sophie, Emma and Shaemna. Mira Rosenfeld Sennett's commitment to our community and our children's education, Judaic and otherwise, is commendable. As a friend, I applaud Mira and her loving family for Mira's accomplishments over the years, and I thank her for all she has done for the Jewish community of Nassau County.

TRIBUTE TO MRS. ANGELINE N. PAOLONA

HON. JAMES A. TRAFICANT, JR.
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 17, 2001

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Mrs. Angeline N. Paolone, a remarkable woman who contributed greatly to her family, her community, and this country. She passed away at the age of eighty-nine. She will be deeply missed.

One of seven sisters and four brothers, she leaves six grandchildren and thirteen great-grandchildren. She also leaves a daughter, Betty, and two sons, Louis and Anthony.

Mrs. Paolone was an active member of the St. Rose Church in Girard, Ohio, and the Ohio Leather Works Retirees Club where she dedicated much time helping others.

Angeline Paolone will be greatly missed by the Girard community. She touched the lives of many, and was a friend to all who had the privilege of knowing her.

I extend my deepest sympathy to her family and friends.

PAYING TRIBUTE TO GILLIAN REAM

HON. MIKE ROGERS
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 17, 2001

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to pay tribute to Gillian Ream for being awarded the David L. Boren Undergraduate Scholarship.

Therefore Mr. Speaker, I ask that my colleagues join me in congratulating Gillian Ream for being awarded the David L. Boren Undergraduate Scholarship.

IN HONOR OF THE RETIREMENT OF POLICE CHIEF DOMINICK J. RIVETTI

HON. HOWARD L. BERMAN
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 17, 2001

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to my very good friend, Dominick J. Rivetti, retiring Chief of the Police Department of the City of San Fernando. It has been my great pleasure to know Dominick for more than a decade and to see first hand his strong commitment to the City of San Fernando and the safety of its residents. I've had the opportunity to work with him on many issues both in his capacity as Chief and also as head of the Los Angeles County Chiefs of Police, especially with regard to the enactment, expansion and operation of the federal "Cops on the Beat" program and the maintenance of funding for the L.A. County Narcotics Task Force. Over the many years of our friendship, I have developed enormous admiration for his integrity, his dedication and his competence.

Dominick is retiring after thirty-one years of distinguished service in law enforcement with the San Fernando Police Department. He began his career as a police officer and worked his way through the ranks of the Department, enjoying more and more responsible positions until he was named Chief of Police in December of 1985. During his 15-year tenure as Chief, Dominick has developed many innovative programs and under his able leadership, the San Fernando Police Department has thrived as a community friendly, highly effective law enforcement agency.

Dominick's achievements are perhaps understood best through his personal philosophy toward law enforcement. He not only believes that the Department should protect the community, but that the Department must be an integral part of the community. Under his guidance, the Department has made San Fernando a safer, more peaceful place, embracing the notion that this can best be accomplished through earning and maintaining the support of the community. It is noteworthy that in the past five years, violent crime in San Fernando has dropped more than 50 percent and overall, crime has been reduced by 44 percent.

Dominick has directed his Police Department's resources so as to get more officers on the street and into the community. He has seen to it that programs for young people such as DARE and special youth at risk prevention/intervention programs have been implemented. These programs help keep children from falling through the cracks by redirecting their energies from potentially dangerous ones to constructive ones.

Dominick's commitment to public service extends beyond his official law enforcement duties. He has been an active member of the San Fernando Kiwanis Club, the San Fernando Board of Directors of Directors Northeast Valley Jeopardy Program. He also has taught at UCLA and the Los Angeles Sheriff's Department North Academy.

It is my distinct honor and pleasure to pay tribute to my good friend Dominick Rivetti. He will be greatly missed by the City of San Fernando, but he will be leaving an extremely competent, honored Police Department and a safer community as his legacy. I ask my colleagues to join me in wishing him many happy, healthy and productive years ahead.

RENAMEING OF USNS GUNNERY SGT. FRED W. STOCKHAM

HON. ANDER CRENshaw
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 17, 2001

Mr. CRENshaw. Mr. Speaker, recently my family had the honor of participating in the renaming ceremony for the USNS Gunnery Sergeant Fred W. Stockham at Blount Island Command in Jacksonville, Florida. The event was held to rename the Maritime Prepositioning Force's reconfigured Stockham after Medal of Honor recipient and World War I hero, Fred. W. Stockham.

The USNS Stockham will be part of the Maritime Prepositioning Force of ships operated by the United States Military Sealift Command. These ships carry field matting, fleet hospital equipment, construction battalion equipment and other supplies needed to supplement the requirements of a forward-deployed military force.

The ships that make up the Maritime Prepositioning Force of ships operated by the United States Military Sealift Command play a vital role in our nation's national defense. Our military relies on its capability to be a sustainable force and project its power throughout the world. Maritime Prepositioning Force ships perform this mission by offering our military the equipment needed to be a fast deploying, mobile and sustainable force.

The July 6th renaming event for the newest of our Maritime Prepositioning Force ships offered my family the chance to incorporate the personal background of the ship's new namesake with that of our own life experiences. My wife, Mrs. Kitty Crenshaw, was given the honor of being the Stockham's official sponsor. She performed the ceremonial breaking of the champagne bottle over the ship's railing and was given the opportunity to offer her personal thoughts of motherly pride for the men and women that would man the Stockham.

Mr. Speaker, I submit the speech given by Mrs. Kitty Crenshaw at the renaming ceremony for the USNS Fred W. Stockham into today's RECORD. This speech is an example of the pride our nation holds for our military personnel and the pride a mother feels not only for her own children, but also those in her heart.

Thank you Mr. Speaker for the time today to discuss the USNS Fred W. Stockham renaming event and the vital role the men and women of the Military Sealift Command play in the capabilities of our military force.

I was thrilled when I was asked to be the sponsor of this ship. It seemed like an exciting and wonderful thing to experience. As I read about Sgt. Stockham and the traditions of the this time-honored ship, I was increasingly humbled and grateful for this rarest of honors. As a mother, I felt especially honored and even singled out for this particular ship named
for this particular soldier, Sgt. Stockham was an orphan. He had no family and he never married. A friend was notified of this death. His body was placed in an unmarked grave that was lost for 60 years. Only the men of his company knew of his heroism until 21 years later because his Medal of Honor citation was lost in the chaos during the war. Having known the indescribable joy and privilege of being an adoptive mother, I immediately adopted this great soldier of the Great War into my heart and memory forever. On June 13, 1918, the Germans savagely bombarded Belleau Wood with mustard gas and high explosives for six long hours. Sgt. Stockham courageously led the evacuation of wounded and gassed marines. When he saw a young 17-year-old private cut down by shrapnel and his gas mask torn away, Sgt. Stockham without hesitation pulled off his own mask and put it on the young private and carried him to safety. He returned again and again to carry the wounded out. He finally collapsed from the effects of the deadly gas. He suffered an agonizing death a week later. He was 37.

Sgt. Stockham’s heroism seems to me to be of a higher order. When he took off his mask, he was not just putting himself in harm’s way or even risking death, he was knowingly condemning himself to a horrible death to save the life of his friend. 2000 years ago Jesus of Nazareth said that the greatest thing in the world is love and that there is no greater love than that a man would lay down his life for another. I am profoundly honored and it is with mother-like pride that I offer the gift of the memory of this great man to you and the marines of the USNS Gunnery Sergeant Fred W. Stockham.

APPOINTMENT OF COLONEL CHRISTOPHER ALLEN KNIGHT AS DIRECTOR OF THE FLORIDA HIGHWAY PATROL

HON. DAN MILLER
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 17, 2001

Mr. MILLER of Florida. Mr. Speaker, I rise today to recognize the appointment of Christopher Allen Knight as the newest Director of the Florida Highway Patrol. Colonel Knight has accelerated through the ranks to become the leader of “Florida’s finest.” This is an exciting time for the people of Florida’s 13th Congressional District. The Florida Highway Patrol provides citizens with the highest level of professional service while promoting safety on Florida’s highways through enforcement and education. I commend the FHP for their promotion of a safe driving environment through aggressive law enforcement, public education, and safety awareness; while reducing the number and severity of traffic crashes in Florida, and preserving and protecting human life, property and the rights of all people.

Colonel Knight was recently appointed by Governor Jeb Bush to serve as the Director of the Florida Highway Patrol. Knight was given his badge on June 29, 2001 in Tallahassee. At his side were his 10-year-old son, Mitch, his mother and father, Herman and Genevieve, his sister, Connie Bennett of Venice, and his brother, Thomas Knight, who is a Highway Patrol Troop Commander in Pinellas Park.

Colonel Knight graduated from Venice High School and earned a degree in criminology from Florida State University, before taking a job as a patrolman with the Venice Police Department. He was later selected to serve in the Florida Highway Patrol, and progressed through the ranks in his 20 year career. He has been stationed in Miami, Bradenton, Palatka, and Tallahassee in various positions, including Commander of Troop H, Tallahassee, and Chief of Training at the FHP Academy. His most recent assignment has been Chief of Field Operations for Region II, which includes oversight of Troops C (Tampa), D (Orlando) and F (Bradenton). Knight will now supervise nearly 1,800 officers throughout the state of Florida as the FHP Director.

I congratulate this fine American, and I rest assured that the Florida law enforcement community is in good hands.

HON. HON. BART GORDON
OF TENNESSEE
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 17, 2001

Mr. GORDON. Mr. Speaker, I rise today to honor the 30th anniversary of one of the friendliest towns you will ever find—White House, Tennessee. Nestled among the rolling hills of Middle Tennessee, White House is home to 7,220 residents.

The town got its name from an inn that was painted white and used extensively by people traveling the old Nashville and Louisville Pike in the late 1700s and early 1800s. The historic route was used often by such notable figures as Andrew Jackson, James K. Polk and Andrew Johnson.

With its proximity to Interstate 65 and Old Hickory Lake, White House offers its residents a desirable and unique quality of life. Incorporated in 1971, the town is close to a thriving metropolitan area, but not close enough to spoil its pastoral qualities.

I congratulate White House and its leaders, including Mayor Billy Hobbs, who has served as the town’s mayor for 25 years, for developing a community that understands the need for managed growth. May the town’s next 30 years be as successful as its first 30 years.

PAYING TRIBUTE TO THE HOWELL JAYCEES

HON. MIKE ROGERS
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 17, 2001

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to congratulate the Howell, Michigan Jaycees Chapter on receiving the prestigious Harold R. Marks award for most outstanding local chapter in the country.

Franklin D. Roosevelt once said “there are many ways of going forward, but only one way of standing still.” Through their hard work and public service, the Howell Jaycees have done anything but stand still.

The Marks award is granted to chapters based on membership growth and the type of programs they offer their members and the community.

Therefore Mr. Speaker, I respectfully ask my colleagues to join me in paying tribute to the Howell Jaycees for receiving the Harold R. Marks award. May success continue to follow this outstanding civic organization.

TRIBUTE TO DANIEL BROWN

HON. MARCY KAPTUR
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 17, 2001

Ms. KAPTUR. Mr. Speaker, I rise to pay tribute to Mr. Daniel Brown. For the past three decades he has been a proponent of higher education in northwest Ohio, serving our community as President of Owens Community College.

Mr. Brown has been affiliated with Owens since its inception in 1965, serving in various capacities that culminated in his serving the past seventeen years as President. Always a proponent of the student, he has been the watchdog on tuition increases. He proved his commitment to higher education by lowering tuition five percent for the 2000–01 academic year. Through his hard work and dedication, Owens and its Findlay campus have excelled into the fastest growing two-or-four-year college in Ohio.

His dedication to students doesn’t stop there. Owens has articulation agreements with almost twenty-four-year colleges and universities, including Bowling Green State University, Ohio State University, University of Michigan and University of Toledo, allowing a smooth transfer for graduates pursuing bachelor’s degrees. The school offers more than 100 technical programs and majors in various fields, such as health, business, industrial and engineering technologies and agriculture, in order to prepare students for careers of the future.

With a focus on state-of-the-art facilities, President Brown has expanded the college with such complexes as the Fire Science/Law Enforcement Center and Industrial and Engineering Technologies Building. A new library, audio/visual classroom center, math/science center and student health and activities center have increased the Galleria Complex, a new addition to the old campus. A Fine and Performing Arts Center will round out the construction for this site.

Even though growth, both at the physical campus and enrollment, has been exponential during the tenure of Mr. Brown, Owens remains committed to offering small classes, personal attention and flexible class schedules so that each person interested in a higher education will be afforded the opportunity to quality instruction.

The efforts of Daniel Brown will be evident for years to come. He has touched the lives of countless individuals and will be remembered with reverence and veneration.
REIMPORTATION OF FDA-APPROVED PHARMACEUTICALS

HON. RON PAUL OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 17, 2001

Mr. PAUL. Mr. Speaker, due to a personal matter I was unable to be present for roll-call votes last week. I particularly regret not being in attendance for the votes on the amendments to the Agriculture Appropriations bills offered by the gentleman from Vermont (Roll Call no. 216) and the gentleman from Minnesota (Roll Call no. 217) dealing with the re-importation of FDA-approved pharmaceuticals. I would have enthusiastically supported both amendments had I been able to be here last week and I was quite disappointed to see the gentleman from Vermont’s amendment rejected and pleased to see the gentleman from Minnesota’s amendment accepted by this body.

I appreciate the opportunity to explain why I supported these amendments. As my colleagues are aware, many Americans are concerned about the high cost of prescription drugs. These high prices particularly affect low-income senior citizens because many seniors have a greater than average need for prescription pharmaceuticals. Therefore, all members of Congress who are serious about lowering prescription drug prices should have supported these amendments.

As a representative of an area near the Texas-Mexican border I often hear from angry constituents who cannot purchase inexpensive quality imported pharmaceuticals in their local drug store. Some of these constituents regularly travel to Mexico on their own to purchase pharmaceuticals.

Opponents of the amendments offered by the gentlemen from Vermont and Minnesota waged a hysterical campaign to convince members that this amendment will result in consumers purchasing unsafe products. Acceptance of this argument requires one to assume that consumers will buy cheap pharmaceuticals without taking any efforts to ensure that they are buying a quality product. However, the experience of my constituents who are currently traveling to Mexico on their own to purchase pharmaceuticals shows that consumers are quite capable of ensuring they purchase safe products without interference from Big “Mother”.

Furthermore, if the supporters of the status quo were truly concerned about promoting health, instead of protecting the special privileges of powerful companies, they would be more concerned with reforming the current policies which endanger health by artificially raising the cost of prescription drugs. Often times lower income Americans will take less of a prescription medicine than necessary to save money. Some senior citizens even forgo other necessities, including food, in order to afford their medications. By reducing the prices of pharmaceuticals this amendment will help ensure no child has to take less than the recommended dosage of a prescription medication and no senior has to choose between medication and food.

In conclusion, Mr. Speaker, I once again wish to express my regret for missing the votes on the amendments by the gentlemen from Vermont and Minnesota and urge my colleagues to show they are serious about lowering the prices of prescription drugs and that they trust the people to do what is in their best interest, by supporting future efforts to establish a true free market in pharmaceuticals.

HONORING RON MADSEN, DIRECTOR, PROVO CITY ECONOMIC RE-DEVELOPMENT

HON. CHRIS CANNON OF UTAH
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 17, 2001

Mr. CANNON. Mr. Speaker, today I pay tribute to the work of Ron Madsen, a dedicated public servant who has been Provo City’s Economic Redevelopment Director. Ron Madsen has spent the last thirty years working for the City of Provo, and has been an integral part of Provo’s downtown revitalization efforts. On July 13 Ron Madsen will retire from the City of Provo, and his absence will be sorely missed.

Mr. Madsen began working with Provo City in August 1971 as a Planning Aide, and was promoted to Redevelopment Agency Manager in July 1973. He also worked as Housing and Redevelopment Manager from 1975 to 1983. Since 1983 he has been Provo’s Economic Redevelopment Director.

Throughout his career, Mr. Madsen has worked in a tireless and selfless manner to preserve the character of Provo while at the same time encouraging balanced economic growth. Some of the projects he has worked on include developing Provo City’s Historic Downtown into the central point in Utah County for government and legal services, as well as prime office space, and working to bring NUSkin, Inc. international headquarters to downtown Provo. Perhaps the pinnacle of Ron Madsen’s career was the development of the East Bay Retail and Business Park. Mr. Madsen succeeded in securing millions of dollars in federal funds that were crucial to completing this premiere business park. The establishment of the East Bay Business Park resulted in key national businesses relocating to Provo, such as Novell, Inc.

In addition to his professional accomplishments, Mr. Madsen was well known for his integrity and civility in working with his peers. I am also told that like that great American Cowboy Humorist Will Rogers, Mr. Madsen had a wry, genial common sense that was enjoyed by all who worked with him.

Therefore, I am proud to join with his many admirers in extending my highest praise and congratulations to Ron Madsen for his dedicated service to the City of Provo. I extend my most heartfelt good wishes for all his future endeavors.

HONORING STATE REPRESENTATIVE MARCY MORRISON

HON. GEORGE MILLER OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 17, 2001

Mr. MILLER of California. Mr. Speaker, I rise today to invite my colleagues to join me in congratulating Stanley Lathen, Sr., on the occasion of his being honored for his lifelong commitment to labor by the United Food and Commercial Workers Union Local 373R.

President Emeritus Stanley Lathen Sr., was born on April 30, 1908, in the territory of Arizona. His family moved to Lake County soon after his birth and then relocated to Marin County, where he was raised and educated. Stanley served an apprenticeship under the program of the Plumbers and Cement Masons Union in Marin County as a teenager. While working as a mason, he moved to Vallejo in the early 1930’s. Always active in labor affairs, Stanley assisted in the re-organization of the Solano County Building Trade Council. Stanley served as Chairman of the Building Codes Committee for the revision of city building codes and the establishing of building codes in Solano County. He also served as the first Chairman of a Congres...
Mr. HOYER. Mr. Speaker, I rise today to recognize Erich Seefhafer for his 23 years of service to the United States House of Representatives.

Hired by the Doorkeeper’s Office in April 1978, Erich began as a Congressional liaison for the House Publications Distribution Service. In addition to orienting new members and their staffers to available services, he was responsible for allotment and distribution of various books and publications to all House Members.

In 1991 he was selected to be part of the new mail list processing office. This role was an ideal opportunity for a detailed-oriented person like Erich to serve the House Members by processing and expediting their mass mailing requests. Erich completed over 6,000 mailing lists totaling over 350 million addresses without error.

Born at Walter Reed Hospital in Washington, DC on July 23, 1951, Erich is the son of Erich Seefhafer Sr. and Charlotte Hennessy Seefhafer. He has three sisters, a wife of sixteen years, one stepson and two grandchildren. He and his wife have resided in Waldorf, Maryland since 1985.

A motorcycle accident in 1970 resulted in a spinal cord injury that left Erich a paraplegic. Erich’s determination and cheerful outlook have endeared him to many in the Hill community. His sense of humor has always been a welcome asset to all who have worked with him.

A musician of thirty-five years, Erich has played music in New York, New Jersey, Pennsylvania, Maryland and the District of Columbia. He is looking forward to traveling around the country and enjoying the extra time he will endure during his retirement.

We will all miss Erich and wish him a long, happy retirement.

Sincerely,

Postal Operations Staff,
The Staff of Postal Operations, Mail List Processing.

COMMEMORATING THE RETIREMENT OF MARGARET L. HUNT

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 2001

Ms. KAPTUR. Mr. Speaker, I rise today in both celebration and sadness to commemorate the retirement of a faithful court employee who serves the senior citizens advocate extraordinaire, from Toledo, Ohio. A pioneer in the Toledo area senior citizens’ movement, Margaret takes with her 45 years of experience in senior services.

Born in Kentucky, Margaret has been a Toledoan since the age of two. She has lived in South Toledo, graduating from Libbey High School and raising a family. She and her husband, Daniel, to whom she was married for more than fifty years, have four children: Rebecca, Nancy, Margaret, and Daniel. Margaret is also grandmother to eleven grandchildren and seventeen great-grandchildren.

Margaret got her start in Toledo area services while a young mother. Even while she was employed by a local bakery, she helped to establish Teen Town in Highland Park, a meeting place for the City’s Parks & Recreation Department. During that time it became apparent that although Toledo actively developed programs for young people, the same could not be said for older Toledoans. Margaret was charged with the task of developing and implementing such programming. She started by promoting the formation of neighborhood social clubs that met regularly in park shelter houses. Prior to the days of the Older Americans Act and thus with no kind of senior nutrition program available, Margaret took the creative approach of encouraging weekly potluck luncheons. While enjoying each other’s camaraderie and a hot meal, the seniors participated in games and crafts and planned outings. Soon this very successful program was expanded into local senior housing complexes. These groups were the precursor of the modern senior centers. In fact, Margaret was instrumental in the establishment of Toledo’s first senior center, Senior Centers Inc.

In 1987, when the idea of senior centers was still in its infancy and there were just a few beginning locally, Margaret took on the task of growing a center in nearby South Toledo. The South Toledo Senior Center was born in August of that year, with Margaret at the helm as Executive Director. In the twenty
years that followed, Margaret fostered unprecedented growth in the center, which is now in a large and airy freestanding building and continuing to grow. The South Toledo Senior Center serves hundreds of seniors a nutritious lunch every day, and is the only one in the area serving lunch on Sunday as well. Its programs are inclusive: if it’s something seniors enjoy doing it’s being done at the South Toledo Senior Center. I cannot imagine it without her, nor not being greeted with her cheerful smile upon my visits there.

Hayes’s belief that “Old age is not something to which I have arrived kicking and screaming. It is something I have achieved.” Margaret Hunt has arrived at this place in her life with grace. While we wish her a wonderful life of retirement, we yet look to her for continued quiet greatness.

VICE PRESIDENT CHENEY’S EXPENSIVE ELECTRICITY BILL

HON. JOHN D. DINGELL
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 17, 2001

Mr. DINGELL. Mr. Speaker, oh, pity the Vice President’s electricity bill is too expensive. It seems that like many other Americans, the Vice President is faced with an intolerably high energy bill this year.

What is our unfortunate Vice President to do?

President Bush has suggested that American people spend their tax-rebate check to pay their energy bills. Regrettably, the Vice President’s rebate check will not be enough to cover his costs—his electricity bill is in the six-figure range.

Perhaps he would be well served by turning off some more lights around the house as Lyndon Johnson used to do, or maybe turning his air-conditioner off when he is not at home. But until recently, the Vice President has not been strong on conservation—dismissing it as “a sign of personal virtue, but not the basis for a sound, comprehensive energy policy.”

Consistent with that thinking, Vice President Cheney said, “If you want to leave all the lights on in your house, you can. There’s no law against it. But you will pay for it.”

Well, thankfully, the Vice President is putting his money where his mouth is.

Or is he?

You see now, Mr. Cheney, with his 33-room mansion and $186,000 per year energy bill, doesn’t want to “pay for it.” He wants the United States Navy to pick up the tab, and House Republicans are going to extraordinary lengths to help him get off the hook. House Republicans are poised to relieve his official electricity costs, by Republicans are poised to relieve his official

House Republicans are going to extraordinary lengths to help him get off the hook. House Republicans are poised to relieve his official electricity costs, by

Mr. Speaker, today I am introducing with Mr. Matsui the Individual Tax Simplification Act of 2001, and invite all my colleagues to join me in sponsoring this legislation.

It is fitting that this bill on tax simplification is being introduced on the first day of joint hearings on tax simplification in the Select Revenue Measures and Oversight Subcommittee of the Ways and Means Committee. Simplification is on everyone’s wish list. While my bill may not fulfill everyone’s wish, this bill will eliminate approximately 200 lines from tax forms, schedules and worksheets. My bill generally does this in a revenue neutral manner, and without moving money between economic groups. The tax code is terribly complex, and has become dramatically more complex for average taxpayers during the past six years.

A skeptic might argue that there is no constituency for simplification, but that is changing. A poll by the Pew Research Center said the federal tax system is too complicated. Five years ago slightly less than half agreed.

I believe that with a little compromise, we can enact significant tax simplification. That is why I have made sure this bill is essentially revenue neutral. And why is that? That is why does the bill not do to change the tax burden between economic income groups. This is not an attack on the wealthy, nor anyone else. As with any change in the tax law, there are some winners and losers—but I want to stress that this is incidental to the objective of the bill—which is simplification that benefits us all.

The bill has three parts. The first is based on legislation I introduced in the last two Congresses regarding nonrefundable personal credits. The second part simplifies the taxation of capital gains. The third part repeals two hidden marginal tax rates on high income individuals, and repeals the individual minimum tax.

TITLE I—SIMPLIFICATION RELATING TO NONREFUNDABLE PERSONAL CREDITS

In recent years, much tax relief has been given to taxpayers in the form of nonrefundable credits, like the two education credits. These credits are not usable against the alternative minimum tax. That means that more and more individuals will lose all or part of these credits, and will have to fill out the extremely complicated AMT form. Congress recognized this problem last year by enacting my proposal to waive this until the end of this tax year. It also, this year, permanently took the child credit and the adoption credit out of the AMT. Now is the time to finish the job.

The other problem with nonrefundable credits is that the phase out provisions vary from credit to credit, causing unnecessary complexity. In addition, the same additional dollar of income can result in a reduction in more than one nonrefundable credit.

It is fundamentally wrong to promise the American people tax relief, then take all or part of it away in a backhanded manner. This fundamentally flawed policy, enacted in 1997, will get worse each and every year as more American families find themselves to be AMT taxpayers simply because of the impact of inflation, or because of their desire to take advantage of the tax relief we have promised them. Not only that, this situation will also get worse if additional nonrefundable credits are approved by Congress.

The bill addresses both concerns. First, it permanently waives the minimum tax limitations on all nonrefundable credits. Second, the bill creates a single phase out range for the adoption credit, the child credit, and the education credits, replacing the current three phase out ranges.

TITLE II—SIMPLIFICATION OF CAPITAL GAINS TAX

The second title of this bill is, essentially, Mr. Coyne’s capital gains proposal from 1999. Under current law, there are 5 different tax rates for long term capital gains, and a 54 line tax form that must be endured. Moreover, this part of the tax code is already scheduled to get worse because additional rates will take affect under current law in 2006.

The bill is designed to fix this jumble of rates and forms with a simple 38 percent exclusion. Not only will this result in tremendous simplification (eliminating 36 of the 54 lines), but more than 97 percent of individuals would be eligible for modest capital gains tax reductions.

TITLE III—REPEAL OF CERTAIN HIDDEN MARGINAL RATE INCREASES, AND OF THE INDIVIDUAL MINIMUM TAX

The third title of the bill repeals the hidden marginal rate increases in current law, and repeals the individual minimum tax. The third title of this bill on tax simplification—“serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritious meal serves hundreds of seniors a nutritio...
In the last Congress, the replacement tax began at 1 percent for adjusted gross incomes in excess of $120,000 on a joint return, and increased to 2.08 percent for income greater than $150,000, which is where the minimum tax exemption begins to phase out. This year I have given the Secretary of the Treasury the ability to set the rate so that this bill would be revenue neutral over ten years. The initial threshold amount and the second threshold amount remain the same—$120,000 and $150,000 in the cases of a joint return.

**CONCLUSION**

Ironically, this simplification proposal must be complex, because it mirrors our current law. I want, therefore, to focus on what is important.

This bill provides fairly dramatic simplification of the individual tax system. It eliminates approximately 200 lines on tax forms, schedules and worksheets.

It is basically revenue neutral, so it can be accomplished during a year when there is no non-social security non-medicare budget surplus to fund tax cuts.

It does not attempt to shift money between income groups. The general philosophy behind the bill is that those who benefit from tax simplification of the current code should offset any revenue loss involved.

It is estimated that more than 50 percent of individuals use tax return preparers, and that more than 16 percent use computer software to prepare their return. Only about one-third of individuals actually fill out their own forms. There is no excuse for that reality, and we should do something about it. Given the lack of resources to write another major tax bill the priority for which is likely to be business tax breaks anyway, the reality that no one wants to pay for simplification no matter how much they support the goal, and the need to resolve the solvency issues surrounding social security and Medicare, I think the opportunity exists this year to solve some of the problems that bother all our constituents during this tax filing season in the manner that I have suggested.

I am introducing this legislation to continue the discussion I began in the last Congress, and I hope it will be seriously considered by all parties.

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**MARKING THE FIFTH ANNIVERSARY OF THE TRAGEDY OF TWA FLIGHT #800**

HON. FELIX J. GRUCCI, JR.
OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 2001

Mr. GRUCCI. Mr. Speaker, I rise today in recognition of the fifth anniversary of the tragedy of TWA Flight #800, remembering the passengers and crew who perished in that horrible event, and expressing our thoughts and sympathies to the families they left behind and those who participated in the rescue and recovery effort in the days following.

On the night of July 17, 1996, I was called and told that the unthinkable happened. A commercial jet, TWA Flight #800 bound from New York to Paris, had exploded in the skies over Long Island's South Shore.

There were no survivors. As a locally elected official of the community closest to the crash site, I was one of the first people on the scene in the moments following the crash at the U.S. Coast Guard Facility in East Moriches, New York.

This tragedy has left an indelible memory that will last forever in the minds of all the residents of Long Island. They rallied to the aid of those who needed them when Flight #800 crashed off the shores of East Moriches. I speak today to honor not only those who lost their lives that night, but the families and friends they left behind and those who worked so hard, day and night, in the recovery effort.

For so long after this tragedy, many of our residents wanted to know how they could help the families of the victims or those participating in the recovery effort. They came with donations of food, clothing, and eventually contributed to the construction of two separate memorials.

The Tragedy of TWA Flight #800 is an event that has changed all of us as a nation forever, and one we should never forget.

As the families of our lost neighbors and friends gather on the South Shore of Long Island in a candlelight vigil, Colleagues, please join me today in remembering and honoring the fifth anniversary of this tragedy with a moment of silence. Let us also recognize those who worked so hard in the rescue and recovery effort, and in expressing our sympathy and support to the families who lost a loved one that frightful night five years ago.

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**HONORING MR. ANTHONY F. CAROZZA FOR HIS OUTSTANDING CAREER IN THE RESTAURANT AND FOOD SERVICE INDUSTRY**

HON. DAVID L. HOBSON
OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 2001

Mr. HOBSON. Mr. Speaker, Whereas, Mr. Anthony F. Carozza, known as “Tony” by his friends and family, retired on the first day of May 2001, after more than 40 years of exemplary service in the restaurant industry; and

Whereas, Tony launched his career in 1960 with Gino’s successfully assisting in the start up of many of these famous food chains, and

Whereas, in 1962, he desired a new challenge, and he opened three of his own pizza and sub shops, in Baltimore, MD, called Tony’s Snack Shops; and

Whereas, in 1970, Tony Carozza and family grew tired of city life, and up and moved to Ocean City, Maryland, where Tony worked as a pliedriver in the frigid February waters before becoming a manager at Pappy’s Pizza and Beer, and taking over Beefy’s, the first real fast food restaurant in this resort town; and

Whereas, in a small community where all the locals knew each other, Tony, his wife, Mary Pat, and their four young children ran the restaurant, with each family member making his/her own significant and sometimes humorous contribution to the business; and

Whereas, the Carozza home and Beefy’s served as a “home away from home” for countless friends, neighbors, and family members who shared many fond and funny memories with the Carozza family including enjoying the famous upside down Christmas tree handing from the rafters of Beefy’s; and

Whereas, in 1980, Tony, a shrewd businessman who was known for being tough on salesmen, began his 20 years in the food service industry, beginning with Shoreland Food Service, followed by PYA Monarch from 1985–1990, then Sandler Foods from 1990–1993, and ending finally in 2001 with J.P. Food Service/U.S. Food Service; and

Whereas, his many years of hard work in the restaurant business led to his becoming an award winning salesman with J.P. Food Service/U.S. Food Service bringing in over $3.5 million annually for several consecutive years; and

Whereas, Tony Carozza’s impressive work ethic and complete dedication to his family and his community have brought him many successes and much happiness, and his many friends and family members who recognize his integrity, his standards of conduct, and his honorable work and life code.

Now therefore, on behalf of the United States Congress, I take great pleasure and pride in joining with his family and friends to honor Anthony F. Carozza upon his retirement after more than 40 years of outstanding service to his customers, community, and family.
HIGHLIGHTS

Senate passed Bankruptcy Reform.

The House passed H.J. Res. 36, proposing a Constitutional Amendment to Prohibit the Desecration of the Flag.

The House agreed to suspend the rules and pass S. 360, to honor Paul D. Coverdell—clearing the measure for the President and agree to H. Res. 195, commending U.S. military and defense contractor personnel for a successful Missile Defense Interceptor Test.

House Committee ordered reported the following appropriation bills for fiscal year 2002: VA, HUD and Independent Agencies and the Treasury, Postal Service and General Government.

Senate

Chamber Action

Routine Proceedings, pages S7721–S7829

Measures Introduced: Six bills and two resolutions were introduced, as follows: S. 1184–1189, S. Res. 135, and S. Con. Res. 60. Page S7805

Measures Passed:

Bankruptcy Reform: By 82 yeas to 16 nays, 1 responding present (Vote No. 236), Senate passed H.R. 333, to amend title 11, United States Code, after taking action on the following amendments proposed thereto: Pages S7721–35, S7737–39, S7741–89

Adopted:


By 52 yeas to 46 nays, 1 responding present (Vote No. 235), Wellstone Amendment No. 977 (to Amendment No. 974), to require the General Accounting Office to conduct a study of the effects of the Act on bankruptcy filings. Pages S7739–41, S7741–42

During consideration of this measure today, Senate also took the following action:

By 88 yeas to 10 nays, 1 responding present (Vote No. 234), three-fifths of those Senators duly chosen and sworn having voted in the affirmative, Senate agreed to close further debate on Amendment No. 974 (listed above) to the bill. Pages S7734–35

Energy and Water Development Appropriations Act: Senate continued consideration of H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, taking action on the following amendments proposed thereto: Pages S7739–41, S7789–96

Adopted:

Stabenow Modified Amendment No. 987, to set aside funds to conduct a study on the effects of oil and gas drilling in the Great Lakes. Pages S7739–41, S7790

Senate will continue consideration of the bill on Wednesday, July 18, 2001.

Messages From the President: Senate received the following message from the President of the United States:

Transmitting, pursuant to law, the Report on the National Emergency with Respect to Sierra Leone; to the Banking, Housing, and Urban Affairs. (PM–35) Page S7805

Nominations Received: Senate received the following nominations:
Jo Anne Barnhart, of Delaware, to be Commissioner of Social Security for the term expiring January 19, 2007.
Daniel R. Coats, of Indiana, to be Ambassador to the Federal Republic of Germany.
Marie T. Huhtala, of California, to be Ambassador to Malaysia.
John A. Gauss, of Virginia, to be an Assistant Secretary of Veterans Affairs (Information and Technology).
1 Air Force nomination in the rank of general.
3 Army nominations in the rank of general.
1 Marine Corps nomination in the rank of general.
4 Navy nominations in the rank of admiral.

Executive Reports of Committees:
Pag e S7829
Messages From the House:
Page S7805
Statements on Introduced Bills:
Pages S7809–24
Additional Cosponsors:
Pages S7805–08
Amendments Submitted:
Pages S7825–28
Additional Statements:
Pages S7802–05
Enrolled Bills Presented:
Page S7805
Notices of Hearings/Meetings:
Page S7282
Authority for Committees:
Pages S7828–29
Privilege of the Floor:
Page S7829
Record Votes: Three record votes were taken today.
(Total—236) Pages S7734–35, S7742
Adjournment: Senate met at 9 a.m., and adjourned at 6:36 p.m., until 9:30 a.m., on Wednesday, July 18, 2001. (For Senate’s program, see the remarks of the Majority Leader in today’s Record on page S7829.)

Committee Meetings
(Committees not listed did not meet)

FEDERAL FARM BILL

Committee on Agriculture, Nutrition, and Forestry: Committee concluded hearings to examine the proposed federal farm bill, focusing on cotton, wheat, rice, sugar, and peanut related provisions, after receiving testimony from James Echols, Hohenberg Brothers Company, Memphis, Tennessee, on behalf of the National Cotton Council of America; Dusty Tallman, Brandon, Colorado, on behalf of the National Association of Wheat Growers; John Denison, Rice Foundation, Iowa, Louisiana, on behalf of the United States Rice Producers’ Group and the United States Rice Producers Association; Jack Roney, American Sugar Alliance, Arlington, Virginia, on behalf of the United States Sugar Industry; Art Jaeger, Consumer Federation of America, Washington, D.C., on behalf of the Coalition for Sugar Reform; and Armond Morris, Georgia Peanut Commission, Ocilla, on behalf of a coalition of state peanut organizations; Wilbur Gamble, Dawson, Georgia, on behalf of the National Peanut Growers Group; and Evans J. Plowden, Jr., Albany, Georgia, on behalf of the American Peanut Shellers Association.

BUSINESS MEETING

Committee on Appropriations: Committee ordered favorably reported an original bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002.

AUTHORIZATION—BALLISTIC MISSILE DEFENSE

Committee on Armed Services: Committee resumed hearings on proposed legislation authorizing funds for fiscal year 2002 for the Department of Defense and the Future Years Defense Program, focusing on ballistic missile defense policies and programs, receiving testimony from Paul D. Wolfowitz, Deputy Secretary of Defense; and Lt. Gen. Ronald T. Kadish, USAF, Director, Ballistic Missile Defense Organization.

Hearings continue on Thursday, July 19.

BUSINESS MEETING

Committee on Commerce, Science, and Transportation: Committee ordered favorably reported the nominations of Ellen G. Engleman, of Indiana, to be Administrator of the Research and Special Programs Administration, Allan Rutter, of Texas, to be Administrator of the Federal Railroad Administration, both of the Department of Transportation, and Samuel W. Bodman, of Massachusetts, to be Deputy Secretary of Commerce.

Also, committee adopted its rules of procedure for the 107th Congress, and announced the following subcommittee assignments:

Subcommittee on Aviation: Senators Rockefeller (Chairman), Hollings, Inouye, Breaux, Dorgan, Wyden, Cleland, Edwards, Carnahan, Bill Nelson, Hutchison (Ranking Member), Stevens, Burns, Lott, Snowe, Brownback, Gordon Smith, Fitzgerald, and Ensign.

Subcommittee on Communications: Senators Inouye (Chairman), Hollings, Kerry, Breaux, Rockefeller, Dorgan, Wyden, Cleland, Boxer, Edwards, Carnahan, Burns (Ranking Member), Stevens, Lott, Hutchison, Snowe, Brownback, Gordon Smith, Fitzgerald, Ensign, and Allen.
Subcommittee on Consumer Affairs, Foreign Commerce, and Tourism: Senators Dorgan (Chairman), Rockefeller, Wyden, Boxer, Edwards, Carnahan, Bill Nelson, Fitzgerald (Ranking Member), Burns, Brownback, Gordon Smith, Ensign, and Allen.

Subcommittee on Oceans, Atmosphere, and Fisheries: Senators Kerry (Chairman), Hollings, Inouye, Breaux, Boxer, Bill Nelson, Snowe (Ranking Member), Stevens, Hutchison, Gordon Smith, and Fitzgerald.

Subcommittee on Science, Technology, and Space: Senators Wyden (Chairman), Rockefeller, Dorgan, Cleland, Edwards, Carnahan, Bill Nelson, Allen (Ranking Member), Stevens, Burns, Lott, Hatchison, Brownback, and Fitzgerald.

Subcommittee on Surface Transportation and Merchant Marine: Senators Breaux (Chairman), Inouye, Rockefeller, Kerry, Dorgan, Cleland, Edwards, Carnahan, Bill Nelson, Allen (Ranking Member), Stevens, Burns, Lott, Hatchison, Brownback, Fitzgerald, and Ensign.

MEDIA INDUSTRY CONSOLIDATION

Committee on Commerce, Science, and Transportation: Committee concluded hearings to examine media consolidation in the broadcast and newspaper industries, focusing on the Federal Communications Commission rules and issues associated with restrictions on media ownership, after receiving testimony from Mel Karmazin, Viacom, Inc.; William F. Baker, Thirteen/WNET New York; and Eli M. Noam, Columbia University Institute For Tele-Information, all of New York, New York; Alan Frank, Post-Newsweek Stations, Inc.; Detroit, Michigan, on behalf of the Network Affiliated Stations Alliance; Jack Fuller, Tribune Publishing Company, Chicago, Illinois; and Gene Kimmelman, Consumers Union, Washington, D.C.

ENERGY EFFICIENCY


Hearings continue tomorrow.

MEMORIALS/PARKS/RIVERS

Committee on Energy and Natural Resources: Subcommittee on National Parks concluded hearings on S. 281, to authorize the design and construction of a temporary education center at the Vietnam Veterans Memorial; S. 386 and H.R. 146, to authorize the Secretary of the Interior to study the suitability and feasibility of designing the Great Falls Historic District in the city of Paterson, in Passaic County, New Jersey, as a unit of the National Park System; S. 513 and H.R. 182, to amend the Wild and Scenic Rivers Act by designating a segment of the Eightmile River in Connecticut for potential addition to the National Wild and Scenic Rivers System; S. 921 and H.R. 1000, to adjust the boundary of the William Howard Taft National Historic Site in the State of Ohio, and to authorize an exchange of land in connection with the historic site; S. 1097, to authorize the Secretary of the Interior to issue right-of-way permits for natural gas pipelines within the boundary of the Great Smoky Mountains National Park; and H.R. 1668, to authorize the Adams Memorial Foundation to establish a commemorative work on Federal land in the District of Columbia and its environs to honor former President John Adams and his family, after receiving testimony from Senators Kennedy, Dodd, DeWine, and Torricelli; Representatives Roemer and Pascrell; John G. Parsons, Associate Regional Director, Lands, Resources, and Planning, National Capital Region, National Park Service, Department of the Interior; Patricia E. Gallagher, Executive Director, National Capital Planning Commission; Deborah Hoffman, Passaic County Department of Economic Development, Paterson, New Jersey; Jan Craig Scruggs, Vietnam Veterans Memorial Fund, Washington, D.C.; and Nathan M. Frohling, The Nature Conservancy, Essex, Connecticut.

BUSINESS MEETING

Committee on Finance: Committee ordered favorably reported the following business items:

S.J. Res. 16, approving the extension of nondiscriminatory treatment to the products of the Socialist Republic of Vietnam, with an amendment in the nature of a substitute; and
The nominations of Wade F. Horn, of Maryland, to be Assistant Secretary for Family Support, Kevin Keane, of Wisconsin, to be Assistant Secretary for Public Affairs, both of the Department of Health and Human Services, Allen Frederick Johnson, of Iowa, to be Chief Agricultural Negotiator, Office of the United States Trade Representative, Brian Carlton Roseboro, of New Jersey, to be Assistant Secretary of the Treasury for Financial Markets, and William Henry Lash III, of Virginia, to be an Assistant Secretary of Commerce for Market Access and Compliance.

Also, committee appointed Senators Baucus, Rockefeller, Daschle, Grassley, and Hatch to the Joint Committee on Taxation and the Congressional Trade Advisors on Trade Policy and Negotiations, and announced the following subcommittee assignments:

Subcommittee on Health Care: Senators Rockefeller (Chairman), Daschle, Jeffords, Bingaman, Kerry, Torricelli, Lincoln, Breaux, Graham, Snowe (Ranking Member), Gramm, Grassley, Kyl, Hatch, Nickles, Thompson, and Thomas.

Subcommittee on International Trade: Senators Baucus (Chairman), Rockefeller, Daschle, Conrad, Jeffords, Kerry, Lincoln, Graham, Torricelli, Hatch (Ranking Member), Grassley, Thompson, Murkowski, Gramm, Lott, Snowe, and Thomas.

Subcommittee on Social Security and Family Policy: Senators Breaux (Chairman), Rockefeller, Bingaman, Daschle, Jeffords, Kerry, Kyl (Ranking Member), Nickles, Lott, Gramm, and Thomas.

Subcommittee on Taxation and IRS Oversight: Senators Conrad (Chairman), Torricelli, Breaux, Bingaman, Lincoln, Baucus, Rockefeller, Nickles (Ranking Member), Lott, Hatch, Thompson, Snowe, and Murkowski.

Subcommittee on Long-term Growth and Debt Reduction: Senators Graham (Chairman), Baucus, Conrad, Murkowski (Ranking Member), and Kyl.

FLEXIBLE GOVERNMENT PERSONNEL SYSTEMS

Committee on Governmental Affairs: Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia concluded hearings to examine the expansion of flexible personnel systems throughout the United States government, to determine if they have been successfully employed and if they should be extended, after receiving testimony from David M. Walker, Comptroller General of the United States, General Accounting Office; Sean O’Keefe, Deputy Director, Office of Management and Budget; Charles O. Rossotti, Commissioner, Internal Revenue Service, Department of the Treasury; Charles S. Abell, Assistant Secretary of Defense for Force Management Policy; Bobby L. Harnage, Sr., American Federation of Government Employees, AFL-CIO, Susan Shaw, National Treasury Employees Union, and Myra Howze Shiplett, National Academy of Public Administration Center for Human Resources Management, all of Washington, D.C.

NOMINATION

Committee on the Judiciary: Committee concluded hearings on the nomination of Asa Hutchinson, of Arkansas, to be Administrator of Drug Enforcement, Department of Justice, after the nominee, who was introduced by Senators Hutchinson and Lincoln, and Representative Conyers, testified and answered questions in his own behalf.
House of Representatives

Chamber Action

Bills Introduced: 33 public bills, H.R. 2507–2539; and 3 resolutions, H. Res. 195, 197, and 198, were introduced. Pages H4111–12

Reports Filed: Reports were filed as follows:

H.R. 2506, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2002 (H. Rept. 107–142);

H. Con. Res. 62, expressing the sense of Congress that the George Washington letter to Tuoro Synagogue in Newport, Rhode Island, which is on display at the B’nai B’rith Klutznick National Jewish Museum in Washington D.C., is one of the most significant early statements buttressing the nascent American constitutional guarantee of religious freedom, amended (H. Rept. 107–143); and

H. Res. 196, providing for consideration of H.R. 7, to provide incentives for charitable contributions by individuals and businesses, to improve the effectiveness and efficiency of government program delivery to individuals and families in need, and to enhance the ability of low-income Americans to gain financial security by building assets (H. Rept. 107–144). Page H4111

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Culberson to act as Speaker pro tempore for today. Page H4028

Guest Chaplain: The prayer was offered by the guest Chaplain, Rabbi Mitchell Wohlberg, Beth Tfiloh Congregation of Baltimore, Maryland. Page H4028

Recess: The House recessed at 9:22 a.m. and reconvened at 10:00 a.m. Page H4028

Private Calendar: On the call of the Private Calendar, the House passed over without prejudice, H.R. 392, for the relief of Nancy B. Wilson; passed H.R. 807, for the relief of Rabon Lowry of Pembroke, North Carolina; and passed S. 560, for the relief of Rita Mirembe Revel (a.k.a. Margaret Rita Mirembe)—clearing the measure for the President. Pages H4028–29

Consideration of Joint Resolution Disapproving the Extension of Normal Trade Relations Treatment to China: Agreed that it be in order at any time on July 18, 2001, or any day thereafter, to consider in the House H.J. Res. 50, disapproving the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974 with respect to the People’s Republic of China; that it be considered read; that all points of order be waived; that it be debatable for 2 hours, equally divided and controlled, that pursuant to sections 152 and 153 of the Trade Act of 1974, the previous question be considered as ordered to final passage without intervening motion; and that these provisions of the Trade Act of 1974 shall not otherwise apply to any joint resolution disapproving the waiver authority with respect to the People’s Republic of China for the remainder of the first session of the One hundred Seventh Congress. Page H4034

Presidential Message—National Emergency re Sierra Leone: Read a message from the President wherein he transmitted a 6 month periodic report on the national emergency with respect to Sierra Leone that was declared in Executive Order 13194 of January 18, 2001—referred to the Committee on International Relations and ordered printed (H. Doc. 107–102). Page H4041

Recess: The House recessed at 11:44 a.m. and reconvened at 12 noon. Page H4041

Suspensions: The House agreed to suspend the rules and pass the following:

Paul D. Coverdell Peace Corps Headquarters: S. 360, to honor Paul D. Coverdell—clearing the measure for the President (agreed to by a yea-and-nay vote of 330 yeas to 61 nays with 11 voting “present,” Roll No. 229)—clearing the measure for the President; and

Paul D. Coverdell Peace Corps Headquarters: S. 360, to honor Paul D. Coverdell—clearing the measure for the President (agreed to by a yea-and-nay vote of 330 yeas to 61 nays with 11 voting “present,” Roll No. 229)—clearing the measure for the President; and

Successful Missile Defense Interceptor Test: H. Res. 195, commending the United States military and defense contractor personnel responsible for a successful In-flight ballistic missile defense interceptor test of July 14, 2001 (agreed to by yea-and-nay vote of 321 yeas to 77 nays with 11 voting “present.”)

Prohibiting the Desecration of the Flag of the United States: The House passed H.J. Res. 36, proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States by a yea-and-nay vote of 298 yeas to 125 nays, Roll No. 232. Pages H4036–41, H4042–43

Rejected the Watt of North Carolina amendment in the nature of a substitute that sought to authorize the Congress, not inconsistent with the first amendment, to prohibit the physical desecration of the flag by a yea-and-nay vote of 100 yeas to 324 nays, Roll No. 231. Pages H4063–68
H. Res. 189, the rule that provided for consideration of the joint resolution was agreed to by voice vote.

Pages H4035–36

Recess: The House recessed at 4:27 p.m. and reconvened at 6:31 p.m.

Page H4070


Pages H4071–H4100

Agreed To:
Cannon amendment that strikes reference limiting claims covered by the Radiation Exposure Compensation Act to those in effect on June 1, 2000; Page H4092

Rejected:
Lucas amendment that sought to increase Community Oriented Policing Services (COPS) funding by $11.7 million to combat methamphetamine production and trafficking and decrease International Broadcasting Operations funding accordingly (rejected by a recorded vote of 187 ayes to 227 noes, Roll No. 233);

Hinchey amendment no. 2 printed in the Congressional Record of July 16 that sought to increase funding for the Economic Development Administration funding by $73 million for development grants and trade adjustment assistance and decrease prison construction funding accordingly (rejected by a recorded vote of 172 ayes to 244 noes, Roll No. 234); and

DeGette amendment that sought to strike Section 103 which prohibits Federal funding to pay for an abortion (rejected by a recorded vote of 169 ayes to 253 noes, Roll No. 235). Pages H4094–97, H4099–H4100

Withdrawn:
Brady amendment was offered but subsequently withdrawn that sought to increase funding to the Justice and State departments by $5 million to bolster efforts to negotiate extradition treaties to close havens for criminals.

H. Res. 192, the rule that provided for consideration of the bill was agreed to by voice vote.

Pages H4069–70

Further Consideration of Commerce, Justice, State, and the Judiciary Appropriations: Agreed that during further consideration of H.R. 2500, Commerce, Justice, State, and the Judiciary Appropriations, no further amendment to the bill may be offered except pro forma amendments offered by the chairman or ranking minority member of the Committee on Appropriations or their designees for the purpose of debate; and amendments printed in the Congressional Record of July 17, 2001, or any Record before that date. The Clerk shall be authorized to print in the Congressional Record of July 17, 2001 all amendments that are at the desk and not already printed.

Page H4097

Amendments: Amendments ordered printed pursuant to the rule appear on pages H4114–15.


Adjournment: The House met at 9 a.m. and adjourned at 10:58 p.m.

Committee Meetings

DRAFT FARM BILL CONCEPT

Committee on Agriculture: Held a hearing to review Draft Farm Bill Concept. Testimony was heard from public witnesses.

Hearings continue tomorrow.

VA, HUD AND INDEPENDENT AGENCIES AND THE TREASURY, POSTAL SERVICE, GENERAL GOVERNMENT APPROPRIATIONS; BUDGET ALLOCATIONS

Committee on Appropriations: Ordered reported the following appropriation bills for fiscal year 2002: VA, HUD and Independent Agencies; and the Treasury, Postal Service and General Government.

The Committee also approved revised Suballocations of Budget allocations for fiscal year 2002.

21ST CENTURY—IMPROVING AMERICA'S SCHOOLS

Committee on Education and the Workforce: Subcommittee on Education Reform held a hearing on “From Research to Practice: Improving America’s Schools in the 21st Century.” Testimony was heard from public witnesses.

RETIREMENT SECURITY ADVICE ACT

Committee on Education and the Workforce: Subcommittee on Employer-Employee Relations held a hearing on H. R. 2269, Retirement Security Advice Act of 2001. Testimony was heard from Ann L. Combs, Assistant Secretary, Pension and Welfare Benefits, Department of Labor; and public witnesses.

ENERGY CONSERVATION AND ADVANCEMENT ACT

Will continue tomorrow.

**21ST CENTURY—ELDERLY HOUSING AND AFFORDABILITY**

*Committee on Financial Services:* Subcommittee on Housing and Community Opportunity held a hearing entitled “Elderly Housing and Affordability for the 21st Century.” Testimony was heard from public witnesses.

**STEM CELL RESEARCH**

*Committee on Government Reform:* Subcommittee on Criminal Justice, Drug Policy and Human Resources held a hearing on “Opportunities and Advancements in Stem Cell Research.” Testimony was heard from public witnesses.

**TOWARD GREATER PUBLIC-PRIVATE COLLABORATION**

*Committee on Government Reform:* Subcommittee on Technology and Procurement Policy held a hearing entitled “Toward Greater Public-Private Collaboration in Research and Development: How the Treatment of Intellectual Property Rights is Minimizing Innovation in the Federal Government.” Testimony was heard from Jack Brock, Managing Director, Acquisition and Sourcing Management, GAO; Deidre Lee, Director, Defense Procurement, Department of Defense; Eric Fygi, Deputy General Counsel, Department of Energy; and public witnesses.

**ENERGY SECURITY ACT**

*Committee on Resources:* Ordered reported, as amended, H.R. 2436, Energy Security Act.

**MISCELLANEOUS MEASURES**

*Committee on Resources:* Subcommittee on National Parks, Recreation and Public Lands held a hearing on the following bills: H.R. 1518, Avery Point Lighthouse Restoration Act of 2001; H.R. 1776, Buffalo Bayou National Heritage Area Act; and H.R. 2114, National Monument Fairness Act of 2001. Testimony was heard from Representatives Green of Texas and Simmons; the following officials of the Department of the Interior: John Robbins, Assistant Director, Cultural Resources, Stewardship and Partnership, National Park Service; and Tom Fulton, Deputy Assistant Secretary, Land and Minerals Management; Dee Hauber, Mayor, Groton, Connecticut; James L. Streeter, Co-Chairman, Avery Point Lighthouse Society, Groton, Connecticut; and public witnesses.

**COMMUNITY SOLUTIONS ACT**

*Committee on Rules:* Granted, by voice vote, a modified closed rule providing 1 hour of debate on H.R. 7, Community Solutions Act of 2001. The rule waives all points of order against consideration of the bill. The rule provides that, in lieu of the amendments recommended by the Committee on Ways and Means and the Committee on the Judiciary, the amendment in the nature of a substitute printed in the Congressional Record and numbered 1 shall be considered as adopted. The rule provides for consideration of the amendment in the nature of a substitute printed in the Rules Committee report, if offered by Representative Rangel or Representative Conyers or a designee, which shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent. The rule waives all points of order against consideration of the amendment printed in the report. Finally, the rule provides one motion to recommit with or without instructions. Testimony was heard from Representatives Foley, Sensenbrenner, Rangel, Cardin, Thurman, Frank and Scott.

**REGROWING RURAL AMERICA**

*Committee on Small Business:* Subcommittee on Rural Enterprises, Agriculture and Technology held a hearing on Regrowing Rural America Through Value-Added Agriculture. Testimony was heard from public witnesses.

**OMNIBUS MARITIME IMPROVEMENT ACT**

*Committee on Transportation and Infrastructure:* Subcommittee on Coast Guard and Maritime Transportation approved for full Committee action H.R. 2481, Omnibus Maritime Improvements Act of 2001.

**MISCELLANEOUS MEASURES**

*Committee on Transportation and Infrastructure:* Subcommittee on Economic Development, Public Buildings and Emergency Management approved for full Committee action the following bills: H.R. 2501, Appalachian Regional Development Reauthorization Act of 2001; and H.R. 988, to designate the United States courthouse located at 40 Centre Street in New York, New York, as the ‘Thurgood Marshall United States Courthouse.’

**TAX CODE SIMPLIFICATION**

*Committee on Ways and Means:* Subcommittee on Oversight and the Subcommittee on Select Revenue Measures held a joint hearing on Tax Code Simplification. Testimony was heard from public witnesses.

**TRADE AGENCY BUDGET AUTHORIZATIONS AND OTHER CUSTOMS ISSUES**

*Committee on Ways and Means:* Subcommittee on Trade held a hearing on Trade Agency Budget Authorizations and other Customs Issues. Testimony
was heard from Representatives Filner and Gonzalez; from the following officials of the Department of the Treasury: Charles W. Winwood, Acting Commissioner, U.S. Customs Service; and Dennis S. Schindel, Deputy Inspector General; Peter Allgeier, Deputy U.S. Trade Representative; Laurie E. Ekstrand, Director, Justice Issues, GAO; and public witnesses.

COMMITTEE MEETINGS FOR WEDNESDAY, JULY 18, 2001

(Committee meetings are open unless otherwise indicated)

Senate

Special Committee on Aging: to resume hearings to examine long term care issues, focusing on costs and demands including state initiatives to shift Medicaid services away from institutional care and toward community based services, 10 a.m., SD–628.

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, and Education, to hold hearings to examine stem cell research issues, focusing on the National Institute of Health report entitled “Stem Cells: Scientific Progress and Future Research Directions”, 9:30 a.m., SH–216.

Committee on Armed Services: Subcommittee on Personnel, 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 active and reserve military and civilian personnel programs, 9:30 a.m., SR–222.

Committee on Banking, Housing, and Urban Affairs: business meeting to mark up proposed legislation authorizing funds for the U.S. Export-Import Bank, proposed legislation authorizing funds for the Iran and Libya Sanctions Act; the nomination of Mark B. McClellan, of California, to be a Member of the Council of Economic Advisers; and the nomination of Sheila C. Bair, of Kansas, to be an Assistant Secretary of the Treasury for Financial Institutions, 10 a.m., SD–538.

Committee on the Budget: to hold hearings to examine defense spending and budget outlook, 9:30 a.m., SD–608.

Committee on Commerce, Science, and Transportation: to hold hearings to examine safety of cross border trucking and bus operations and the adequacy of resources for compliance and enforcement purposes, focusing on the impact on United States communities, businesses, employees, and the environment as well as the application of U.S. laws to the operations, 9:30 a.m., SR–253.

Committee on Energy and Natural Resources: to hold hearings on the nomination of Dan R. Brouillette, of Louisiana, to be Assistant Secretary of Energy for Congressional and Intergovernmental Affairs, 9 a.m., SD–366.

Full Committee, to hold hearings on proposals related to energy and scientific research, development, technology deployment, education, and training, including Sections 107, 114, 115, 607, Title II, and Subtitle B of Title IV of S. 388, the National Energy Security Act of 2001; Titles VIII, XI, and Division E of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001; Sections 111, 121, 122, 123, 125, 127, 204, 205, Title IV and Title V of S. 472, the Nuclear Energy Electricity Supply Assurance Act of 2001; S. 90, the Department of Energy Nanoscale Science and Engineering Research Act; S. 193, the Department of Energy Advanced Scientific Computing Act; S. 242, the Department of Energy University Nuclear Science and Engineering Act; S. 259, the National Laboratories Partnership Improvement Act of 2001; S. 636, a bill to direct the Secretary of Energy to establish a decommissioning pilot program to decommission and decontaminate the Sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas; S. 1130, the Fusion Energy Sciences Act of 2001; and S. 1166, to establish the Next Generation Lighting Initiative at the Department of Energy, 9:30 a.m., SD–366.

Committee on Foreign Relations: to hold hearings to examine the Putin administration policies toward the non-Russian regions of the Russian Federation, 10 a.m., SD–419.

Committee on Governmental Affairs: to hold hearings on S. 1008, to amend the Energy Policy Act of 1992 to develop the United States Climate Change Response Strategy with the goal of stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system, while minimizing adverse short-term and long-term economic and social impacts, aligning the Strategy with United States energy policy, and promoting a sound national environmental policy, to establish a research and development program that focuses on bold technological breakthroughs that make significant progress toward the goal of stabilization of greenhouse gas concentrations, and to establish the National Office of Climate Change Response within the Executive Office of the President, 9:30 a.m., SD–342.

Permanent Subcommittee on Investigations, to hold hearings to examine past and current U.S. efforts to convince offshore tax havens to cooperate with U.S. efforts to stop tax evasion, the role of the Organization of Economic Cooperation and Development tax haven project in light of U.S. objectives, and the current status of U.S. support for the project, in particular for the core element requiring information exchange, 2 p.m., SD–628.

Committee on Health, Education, Labor, and Pensions: Subcommittee on Employment, Safety and Training, to hold hearings to examine the protection of workers from ergonomic hazards, 10 a.m., SD–430.

Committee on Indian Affairs: to hold oversight hearings on tribal good governance practices and economic development, 9:30 a.m., SR–485.

Select Committee on Intelligence: to hold closed hearings on intelligence matters, 2:30 p.m., SH–219.

Committee on the Judiciary: to hold hearings to examine reforming the Federal Bureau of Investigation management reform issues, 10 a.m., SD–226.

Full Committee, to hold hearings on the nomination of James W. Ziglar, of Mississippi, to be Commissioner of Immigration and Naturalization, Department of Justice, 2:30 p.m., SD–226.
House

Committee on Agriculture, to continue hearings to review Draft Farm Bill Concept, 10 a.m., 1300 Longworth.

Subcommittee on Department Operations, Oversight, Nutrition and Forestry, hearing to review school pesticide provision included in Senate amendment to H.R. 1, No Child Left Behind Act of 2001, 10 a.m., 1302 Longworth.

Committee on Armed Services, to continue hearings on the Fiscal Year 2002 National Defense Authorization Budget Request, 10 a.m., 2118 Rayburn.


Committee on Energy and Commerce, to continue markup of the Energy Advancement and Conservation Act of 2001; and to mark up the following measures: to amend the Public Health Service Act to redesignate a facility as the National Hansen’s Disease Programs Center; H.R. 1340, Biomedical Research Assistance Voluntary Option Act (BRAVO Act); H.R. 717, Duchenne Muscular Dystrophy Childhood Assistance, Research and Education Amendments of 2001; H.R. 943, Flu Vaccine Availability Act of 2001; H. Con. Res. 61, expressing support for a National Reflex Sympathetic Dystrophy (RSD) Awareness Month; H. Con. Res. 36, urging increased Federal funding for juvenile (Type 1) Diabetes research; H. Con. Res. 25, expressing the Sense of the Congress regarding Tuberous Sclerosis; and H. Con. Res. 84; supporting the goals of Red Ribbon Week in promoting drug-free communities, 10 a.m., 2123 Rayburn.

Committee on Financial Services, hearing on Monetary Policy and the State of the Economy, 10 a.m., 2128 Rayburn.

Committee on Government Reform, Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations and the Subcommittee on National Security, Veterans’ Affairs and International Relations, joint, hearing on Is the CIA’s refusal to cooperate with Congressional inquiries a threat to effective oversight of the operations of the Federal Government? 10 a.m., 2154 Rayburn.

Committee on International Relations, Subcommittee on East Asia and the Pacific, hearing on Indonesia in Transition: Implication for U.S. Interests, 10 a.m., 2172 Rayburn.

Subcommittee on International Operations and Human Rights, and the Subcommittee on the Middle East and South Asia, joint hearing on Silencing Central Asia: the Voice of Dissidents, 2 p.m., 2172 Rayburn.

Committee on the Judiciary, Subcommittee on Commercial and Administrative Law, hearing on H.R. 1410, Internet Tax Moratorium and Equity Act, 2 p.m., 2141 Rayburn.

Committee on Rules, to consider the following: H.R. 2506, making appropriations for Foreign Operations, Export Financing and Related Programs for the fiscal year ending September 30, 2002; and the Conference Report to accompany H.R. 2216, making supplemental appropriations for the fiscal year ending September 30, 2001, 4 p.m., H–313 Capitol.

Committee on Science, to mark up the following bills: H.R. 2460, Comprehensive Energy Research and Technology Act of 2001; and H.R. 2275, Voting Technology Standards Act of 2001, 10 a.m., 2318 Rayburn.


Committee on Transportation and Infrastructure, to mark up the following bills: H.R. 2481, Omnibus Maritime Improvements Act of 2001, H.R. 2501, Appalachian Regional Development Reauthorization Act of 2001; and H.R. 988, to designate the United States courthouse located at 40 Centre Street in New York, New York, as the “Thurgood Marshall United States Courthouse”; and to consider pending committee business, 11 a.m., 2167 Rayburn.

Subcommittee on Highways and Transit, oversight hearing on NAFTA: Arbitration Panel Decision and Safety Issues with Regard to Opening the U.S./Mexican Border to Motor Carriers, 2 p.m., 2167 Rayburn.

Committee on Ways and Means, to mark up the Energy Tax Policy Act of 2001, 4 p.m., 1100 Longworth.
Next Meeting of the SENATE
9:30 a.m., Wednesday, July 18

Senate Chamber
Program for Wednesday: After the recognition of Senator Lott or his designee for memorials on the one year anniversary of the death of Senator Paul Coverdell, and the transaction of any morning business (not to extend beyond 10:30 a.m.), Senate will continue consideration of H.R. 2311, Energy and Water Development Appropriations.

Next Meeting of the HOUSE OF REPRESENTATIVES
10 a.m., Wednesday, July 18

House Chamber
Program for Wednesday: Consideration of H.R. 7, Community Solutions Act of 2001 (modified closed rule, one hour of debate); and Consideration of H.R. 2500, Commerce, Justice, State, and the Judiciary Appropriations (open rule, complete consideration).

Extensions of Remarks, as inserted in this issue

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