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House of Representatives

The House met at 10 a.m.

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

Eternal Father and Lord of the living, enable us to approach You with humility of heart and poverty of spirit.

The Members of Congress are powerful people. Their words bear weight and their positions before the people deserve respect. Therefore, they need to be steeled from arrogance on one side and casual routine on the other.

Lord, only the two-edged sword of Your Word and Your purity of Spirit can bring freshness to their spirits and confirming hope to their constituents. Strengthen their pledge to uphold the Constitution against blatant and subtle attacks and to serve the people with all their hearts.

Then may their speech, their decisions, and their working together with the pluralism of this democracy give You the glory, honor, and power now and forever.

Amen.

THE JOURNAL

The SPEAKER. 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. Will the gentleman from Ohio (Mr. KUCINICH) come forward and lead the House in the Pledge of Allegiance.

Mr. KUCINICH led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1134. An act to amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments.

The message also announced that pursuant to Public Law 101–509, the Chair, on behalf of the Democratic Leader, announces the appointment of the following individual to the Advisory Committee on the Records of Congress: Mr. Guy Rocha of Nevada, vice Stephen Van Buren of South Dakota.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain ten 1-minute speeches on each side.

QUESTIONING THE LEADERSHIP ACROSS THE AISLE

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, yesterday the minority leader of this body slammed the good work we did in repealing the death tax. She called it ''reverse Robin Hood.''

Well, Mr. Speaker, in my opinion, the minority leader owes an apology to all those families that will get to keep the family farm and to all of those small businesses that will survive a second generation because of this tax relief, and she owes an apology to the 42 Democrats who voted with the Republican majority for this very important tax relief.

One has to question the choice of leadership across the aisle. The liberal leadership has opposed repealing the death tax, which is a triple tax on America's working families. They have opposed an energy bill for years now, and they have not supported strengthening our immigration laws. Now they are fighting tooth and nail to prevent Social Security reform.

Mr. Speaker, my constituents are asking what, if anything, do they stand for? In my opinion, they stand for more tax and more spend, everything costs more. I want the American people to know the Republican majority in this House is going to fight to be certain they do not get their way.

SUPPORT RESOLUTION OF INQUIRY REGARDING SOCIAL SECURITY TRUST FUND

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

Mr. KUCINICH. Mr. Speaker, I am going to be in Columbus, Ohio, tomorrow speaking on education when the President is visiting the Cleveland area to speak on Social Security. Now, the President has alternately asserted there is no Social Security trust fund or it is just IOUs.

Here is a copy of the trust fund report from the Social Security Administration. There is a $1.68 trillion surplus in the trust fund. It will grow to $6.6 trillion by 2028. The IOUs the President speaks about are loans that are backed by the full faith and credit of the United States.

Question: Is the President reneging on repaying the more than $637 billion his administration borrowed from the trust fund?

Question: Is this a scheme for the administration to transfer Social Security wealth from tens of millions of American workers to pay for the tax cuts for the rich?

A few weeks ago, I introduced a Resolution of Inquiry asking the President to produce documents to back up his claim there is no trust fund. If anyone in this House has those documents,

make them public. Otherwise, support H. Res. 170, which requires the President to prove his assertion about the trust fund.

This Congress was misled about Iraq. Let us not be misled about Social Security. We do not need a select committee, a Presidential commission, or a Senate investigation. We just need the House to support H. Res. 170.

HONORING THE PASSING OF BILL LEHMAN

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I rise today to honor the passing of a good friend, Bill Lehman, retired Member of Congress and a faithful servant of the Great State of Florida.

In 1972, Bill ran for Congress and got the overwhelming majority of the vote and kept getting reelected easily until his retirement. As chairman of the Committee on Appropriations Subcommittee on Transportation, Bill Lehman was a relentless advocate for the needs of the citizens of Miami-Dade County.

Bill was an avid supporter of human rights also, demonstrating his ability to not only fight for the constituents in his district, but also for people throughout the world. He served his country as a Congressman, school board chairman, and was a beloved teacher, husband, father, and grandfather.

During my first term in Congress in 1989, I saw firsthand the tremendous love that Bill had for his constituents and the admiration that the people of south Florida had for him.

Mr. Speaker, I join the people of Miami-Dade, the State of Florida, and our country in honoring the exemplary life of a great statesman, Congressman Bill Lehman. May he rest in peace.

PROTECTING AMERICANS AGAINST ID THEFT

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

Mr. EMANUEL. Mr. Speaker, another major security breach involving the personal ID theft of 180,000 GM and MasterCard credit card holders should wake up Congress to deliver tough national standards for protecting Americans against ID theft. But this recent outbreak of 180,000 GM and MasterCard credit holders' ID is on the heels of Choice Point, Bank of America and Lexus-Nexus and shows there are too many fraud artists posing as individual businesses and too many individual consumers whose identity is now being stolen and used against them.

According to the Privacy Rights Center, up to 10 million Americans are victims of ID theft each year. They have a right to be notified when their most sensitive health data is stolen.

In response to this problem, there have been bipartisan solutions offered to address it. The gentlewoman from Illinois (Ms. BEAN), the gentleman from Illinois (Mr. GUTIERREZ), the gentlewoman from New York (Ms. SLAUGHTER), and I have introduced the Notification of Risk to Personal Data Act as one piece of legislation. Our legislation requires consumers to be immediately notified when their personal data has been stolen or acquired by an unauthorized person and imposes tough new penalties on violators.

Mr. Speaker, Americans want, need, and rightfully expect Congress to protect them from the prying eyes of identity thieves and give them back control of their Social Security numbers and personal health information.

SUPPORTING LEADERSHIP OF PRESIDENT ON SOCIAL SECURITY

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

Mr. CHOCOLA. Mr. Speaker, this morning I rise in support of the leadership of our President as it relates to Social Security.

Just a couple of weeks ago the President was in my district, and he shared with the people of north central Indiana that we have an undeniable challenge with Social Security. The President believes that leadership solves problems and that leaders do not pass problems along to future generations. He also said that all ideas are on the table.

So, Mr. Speaker, I encourage all of my colleagues, especially those on other side of the aisle, to become part of the solution, rather than just part of the problem. If we say what we are against and we only say what we are against, we only add to the problem; but if we say what we are for and we offer constructive solutions, even if we do not agree with all the solutions offered, let us say that we have a better idea.

Mr. Speaker, I think it is imperative for the American people that we all become part of the solution, we all offer good ideas to make sure that we address one of the most serious problems we face as a Nation, because that is exactly what we are elected for. So I encourage all of my colleagues to be part of the solution.

CLARIFICATION ON COMMENTS ON JUDICIARY NEEDED

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

Mr. INSLEE. Mr. Speaker, some time ago the majority leader of the House, in response to the Schiavo decision, said, ''The time will come for the men responsible for this to answer for their behavior.'' The majority leader yesterday rightfully apologized for those comments, and I think that we should respect that apology, because we are all capable of saying something that we regret that was misunderstood.

But it is most troubling that at the same time the majority leader again threatened the independence of the judiciary. He threatened them with taking away their jurisdiction, he threatened them with breaking up their districts, and he basically threatened this organ of our government that is responsible for our freedoms, for protecting our freedom of religion and protecting our freedom of speech. We have what Russia did not have, an independent judiciary; and I am most troubled that the majority leader, when it comes to their independence and our freedoms and the importance of both of those things, just does not get it.

Mr. Speaker, I am hopeful that he will reconsider his comments yesterday and follow his first apology, if not with a second, with at least a clarification.

PROTECTING THE AMERICAN DREAM

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

Mr. WILSON of South Carolina. Mr. Speaker, yesterday's passage of the Death Tax Repeal Permanency Act was a victory for American families, farmers, and small business owners.

Since reducing the death tax in 2001, over 3 million new jobs have been created in our country. Unfortunately, Congress provided the American people with a temporary solution to a serious problem. The death tax is scheduled to go back into effect in 2010.

The leadership on this issue of the gentleman from Missouri (Mr. HULSHOF) and the majority leader, the gentleman from Texas (Mr. DELAY), has been essential in protecting the American Dream.

□ 1015

The Death Tax Permanency Act will ensure that our tax system does not continue to penalize family-owned businesses such as dealerships, funeral homes, and beverage distributors. As a former probate attorney, I know firsthand we need to end this unfair devil tax which hurts families.

In conclusion, God bless our troops, and we will never forget September 11.

ACCOUNTABILITY IN THE VALERIE PLAME MATTER

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

Mr. HOLT. Mr. Speaker, nearly 2 years after a columnist disclosed the identity of a CIA employee, the White House and the Department of Justice have yet to find and hold accountable

the person or persons who leaked her name to the press.

We know that at least one, and possibly more, executive branch officials violated their oaths to protect classified information and, in doing so, they squandered an important intelligence asset and may have jeopardized the lives of people with whom she has been in contact. American security was harmed.

Some have offered weak excuses for the disclosure, saying the person's identity was already known or her work was not really important. Those are outrageous excuses. More troubling still is the fact that this was leaked in the context of a political vendetta. According to published reports, the leaker was trying to discredit former ambassador Joe Wilson, who was disputing the administration's assertions that Saddam was trying to unleash weapons of mass destruction on the United States. Of course, we now know Wilson was right.

As President George Herbert Walker Bush stated in a speech to CIA employees a few years ago, ''Those who leak the identity of intelligence operatives are the most insidious of traders.'' What does it say about the ethics and responsibilities of this body and the administration that attempts to find this person have been so anemic?

URGENT NEED TO STRENGTHEN SOCIAL SECURITY

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

Mr. GINGREY. Mr. Speaker, I rise today to speak about the urgent need to strengthen Social Security.

It is often said the first step to recovery is admitting you have a problem. Well, we have a problem. We have a serious problems.

Analysts predict that Social Security will be bankrupt by 2042. That may seem a far way off but, in reality, it means Social Security will not be around when today's 20-year-olds retire.

Since the 1930s, we have seen medical advances, technological advances, transportation advances, but we have not seen Social Security advances. We have to make this program sustainable for current and future demographics. We cannot do that if we are stuck using a 1935 model.

Let me be clear. When we talk about reforming the system, we are talking about strengthening Social Security for future generations, not weakening today's retirees or near retirees, who will get every single benefit they have been promised. While Social Security will not change for today's seniors, we have to fix the system for tomorrow's seniors.

My colleagues on the other side of the aisle may be content to make Social Security a political issue, but I am not. Our children's future is too important for political posturing. My concern is more about the next generation than the next election.

SOCIAL SECURITY AND AFRICAN AMERICANS

(Ms. LEE asked and was given permission to address the House for 1 minute.)

Ms. LEE. Mr. Speaker, the President's very cynical attempt to sell his Social Security privatization scheme to African Americans, quite frankly, is very painful. Thank goodness African Americans are not buying it.

President Bush said that his privatization plan would benefit African Americans because we have a shorter life expectancy. It is truly remarkable that the President would rather exploit African Americans' shorter life expectancy to sell his privatization plan than actually do something to help African Americans live longer.

If the President is truly concerned about African Americans, he should support legislation and funding to address the health disparities that contribute to shorter life expectancy. Sadly, this is just the sort of cynical, divisive move we have come to expect from an administration that is bent on cutting the guaranteed benefit of Social Security and entrusting our seniors' retirement security to Wall Street and a roll of the dice.

Mr. Speaker, Julian Bond, President of the NAACP, and the gentleman from Maryland (Mr. CUMMINGS) were correct to call the President on this earlier this week.

HONORING MARYLAND VETERAN OF THE YEAR ORVILLE HUGHES

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

Mr. BARTLETT of Maryland. Mr. Speaker, we cannot live in the land of the free without thanking the brave veterans who secure our liberty. It is my privilege to honor Colonel Orville Hughes from Monkton, Maryland, selected Veteran of the Year by the Joint Veterans' Committee of Maryland.

Colonel Orville Hughes served our country for 27 years in the Army during World War II, Korea, and Vietnam. He was a POW in Germany, earned a Silver Star in Korea, and served as the military attache at the embassy in Vienna, Austria. He earned many other commendations, including the Legion of Merit and the Purple Heart.

After his retirement from the Army, Colonel Orville Hughes continued to serve our country through the DAV, VFW, Military Order of the Purple Heart, American ex-POWs, and the American Legion.

I hope that by honoring the contributions of Colonel Orville Hughes to the country we love, we will appreciate and be inspired by his great example of achievement and service to others.

DEFENDING THE CONSTITUTION AND THE JUDICIARY'S RIGHT TO MAKE DECISIONS

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is interesting, as I listened to a colleague at the beginning of our messages to the House who seemingly wanted to shut the lights off in this place and extinguish the Constitution, which reflects that we are not only a republic but we are a democracy. Democrats have a right to disagree with Social Security policies, medicaid, medicare, and educational policies, because this is a democracy.

Proudly so, we represent half of the United States of America, and we will continue to fight for our issues. One of those issues has to be to support this Constitution, the belief that we are a country governed by laws.

The Constitution designates under article 3 that we have a separate, independent judiciary, one that should be safely secured. Therefore, when Members of the opposite side of the aisle begin to attack court systems simply because they do not agree, they have violated the constitutional provisions that we adhere to.

It is a shame that judges are cowering in the corners because Members have decided to speak ugly against their right to make a decision. When conferences are held in Washington, D.C., and ultraconservatives begin to attack the judiciary, it is time for this congressional body to stand up and defend the Constitution.

END THE TYRANNY OF APRIL 15 ANXIETY

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

Mr. PENCE. Mr. Speaker, my late father used to say, you only have to do two things in life: die and pay taxes. Just about 40 minutes ago, I did one of those things, and I will let my colleagues guess which one it was.

Like millions of Americans, before midnight tomorrow night, I managed to fill out all of the forms which, for me, as a man of no significant means, a public servant married to a schoolteacher, there were only forms that I had to file in three States and with one national government. The full total of the pages that I had to fill out and file neared to 100.

Mr. Speaker, the People's House is supposed to resonate with the hearts of the American people. As we approach this tax day and go through our usual spring ritual of arguments in Washington, D.C., I hope the Congress will resonate with the heart of the American people and seize upon the opportunity to simplify this tax system and end the tyranny of anxiety that reigns throughout the land every April 15.

THE WASHINGTON LOBBYISTS

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute.)

Mr. BROWN of Ohio. Mr. Speaker, today is an important day. It is opening day for the Washington Nationals. Baseball is back in Washington. But we ought to come up with a better name than the Washington Nationals, a name that really fits this city.

The new baseball team should be called the Washington Lobbyists. After all, who runs this town? The energy lobbyists that wrote the energy bill last night in committee, the bank lobbyists who wrote the bankruptcy bill today, the pharmaceutical lobbyists who write the medicare legislation, the Wall Street lobbyists who write the Social Security privacy legislation, and they and their Republican allies in Congress play under different rules. ''It ain't over 'til it's over,'' unless we are losing.

At home games, the Washington Lobbyists could hold the game open, adding extra innings if they are losing at the end of the arbitrary nine. Instead of the oh-so-boring ball day and bat day, we could have Halliburton Gasoline Night: a tank of gas for the first thousand fans at the Halliburton patriotic price of $8.95 a gallon. Or, we could have the Enron Double Header: fans get in early with promises of a big win, but then the team kicks you out and takes your pension away. Or, we could have Wal-Mart Kids Day: kids do not actually get to watch the game. Somebody has actually got to work the concession stand, after all.

Mr. Speaker, if we want to change how things work in Washington, we need a new pitching staff, and the Washington Lobbyists have to go.

CELEBRATING THE WASHINGTON NATIONALS

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

Mr. DREIER. Mr. Speaker, as I listened to my colleague talk about baseball, I have to say that when I first came to this town, I was told that there were two things that mattered: number one, the government; number two, the Redskins. I am so gratified that tonight we will have the opportunity to experience the opening game of the Nationals.

Now, I am a loyal Dodger fan. Tommy Lasorda has repeatedly told me that if I want to go to heaven, I must be a Dodger fan. But I want to congratulate the District of Columbia and all who have been involved in putting together this team. It has been 34 years since a baseball game has been played, a National League baseball game has been played in the District of Columbia, and we are very, very fortunate as a community to be able to focus on something other than the government and something other than the Redskins.

REAL SOLUTIONS FOR SOCIAL SECURITY AND THE DEFICIT

(Mrs. MALONEY asked and was given permission to address the House for 1 minute.)

Mrs. MALONEY. Mr. Speaker, irresponsible budget and tax policies have squandered the budget surpluses that President Bush inherited and turned them into a legacy of debt and deficits. Now he is trying to do the same thing to Social Security with a private accounts plan that would add trillions to our national debt.

This plan is exactly backwards. Instead of thinking up ways to weaken the Social Security Trust Fund, we should be taking steps to guarantee that the assets in the trust fund are truly there to pay future benefits. We cannot do that if we run up large deficits outside Social Security that weaken our economy and increase our foreign debt.

Anyone looking for a plan to address the Social Security problem can begin with two basic steps. First, take private accounts, privatization off the table; and, second, worry about the real crisis, which is the current budget deficit outside Social Security.

THE ''GEORGE W. BUSH BUREAU OF PUBLIC DEBT''

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

Mr. OBEY. Mr. Speaker, I am getting increasingly worried because we have named many a building after Ronald Reagan, but we have not yet named anything significant after our existing President, George W. Bush.

In light of the fact that the estate tax bill that passed yesterday will add $290 billion to the national debt, in light of the fact that the President has presented us with a budget deficit of $400 billion this year, not counting what happened yesterday, in light of the fact that he is trying to blow up Social Security by borrowing an extra $1.4 billion to finance those privatization accounts of his, I hope that Members of the House will join me next week in renaming the U.S. Bureau of Public Debt the ''George W. Bush Bureau of Public Debt.''

I think we ought to honor the President. He has truly earned this award.

PROVIDING FOR CONSIDERATION OF S. 256, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005

Mr. GINGREY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 211 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 211

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (S. 256) to amend title 11 of the United States Code, and for other purposes. All points of order against the bill and against its consideration are waived. The bill shall be considered as read. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; and (2) one motion to recommit.

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

Mr. GINGREY. 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, this is a closed rule providing for consideration of S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

□ 1030

The rule provides for 1 hour debate in the House, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. It waives all points of order against the bill and its consideration, and it provides for one motion to recommit with or without instructions.

GENERAL LEAVE

Mr. GINGREY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 211.

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

There was no objection.

Mr. GINGREY. Mr. Speaker, bankruptcy reform is overdue for passage. Despite its critics, S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, does not exclude anyone from filing for bankruptcy. Instead, it implements a simple means test to shield debtors who make below their State's median income and to determine if a higher income debtor has the ability to partially pay back his or her creditors.

To phrase it simply, bankruptcy reform is financial accountability. It protects our system against fraud and abuse. And it asks those who have the means to repay as much of their debts as they can.

For at least four previous Congresses, members have been trying to reform our ''when in doubt, bail out society'' in favor of personal responsibility. Bankruptcy should not be a financial planning tool, and it should be available for legitimate emergency situations only. Our bankruptcy system should fit the needs of the individual, no more, no less. With this rule, and

passage of the underlying legislation, S. 256 we will finally see some movement in the right direction.

Bankruptcy reform is important to help speed up court hearings, because it only takes a few fraudulent or misdirected cases to stall a court for hundreds of other legitimate bankruptcy filings. Federal bankruptcy filings per judgeship have increased by 71 percent from 2,998 in 1992 to 5,130 in 2003; and it represents the largest case load in our Federal court system. This creates a backlog that slows down the process for those really in need of bankruptcy protection.

Bankruptcy reform provisions found in S. 256 include, but are not limited to: abuse prevention so debtors who have committed crimes of violence or engaged in drug trafficking are no longer able to use bankruptcy to hide their finances;

Needs-based credentials, where if a debtor has the ability to partially repay debts, he or she must either be channeled into a form of bankruptcy relief that requires repayment or risk having the bankruptcy case dismissed as an abusive filing;

Spousal and child support protections to help single parents and their children by closing a loophole used by some spouses currently avoiding their child support responsibilities. This would put child support and alimony payments as a first priority, ahead of credit card debt and attorney's fees. Child support and alimony payments are currently seventh in the priority list of payments;

Closing the mansion loophole require a debtor to live in a State for at least 2 years before he or she can claim that State's homestead exemption. The current requirement is 91 days, allowing some debtors to shield themselves from creditors by putting all of their equity into their homes;

Debtor protections requiring potential debtors to receive credit counseling before they can be eligible for bankruptcy relief, allowing them to make an informed choice about bankruptcy considering all alternatives and consequences;

Further, small business protections to defend against needless bankruptcy lawsuits. Under current law, a business can be sued by a bankruptcy trustee and forced to pay back monies previously paid by a firm that later files for bankruptcy protection;

Additionally, family farm relief by doubling debt eligibility for chapter 12 filing, allowing periodic inflation adjustment of this debt, and lowering the required percentage of a farmer's income that must be derived from farming operations.

There are business privacy protections to prohibit the disclosure of names of a debtor's minor children with privileged information kept in a nonpublic record. Current law allows nearly every item of information supplied by a debtor in connection with his or her bankruptcy case to be made available to the public.

S. 256 passed the Senate with a clear 74 to 25 majority. The House judiciary markup on March 16 included rollcall votes on 11 amendments. The reforms included in this legislation will be very beneficial to our society without ignoring the need of those suffering financial uncertainty. This legislation deserves a clean up-or-down vote. Mr. Speaker, I ask my colleagues to support this rule and pass S. 256 bankruptcy reform.

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

Mr. HASTINGS of Florida. Mr. Speaker, I thank the gentleman from Georgia (Mr. GINGREY) for yielding me the time.

Before yielding myself such time as I may consume, I yield to the distinguished gentleman from California (Mr. STARK) for a unanimous consent request.

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

Mr. STARK. Mr. Speaker, I rise in strenuous opposition to this unfair bill.

Mr. Speaker, I rise in strong opposition to S. 256. This bankruptcy bill is touted as reform, but it is actually a wolf in sheep's clothing intended to allow credit card companies and other lenders to gouge consumers when they are most vulnerable.

Republicans are giving this gift to big credit card companies at a time when many Americans are faced with uncertain job stability, retirement security, and health coverage. In fact, 90% of all bankruptcies are filed due to the common financial emergency of a lost job or lack of medical coverage. This bill makes it harder for working families to seek shelter from these devastating and unavoidable expenses.

The Wall Street Journal recently featured the case of a constituent in my district. Crystal Herndon, a single mom in Haywood, California, earns $15 an hour. Ms. Herndon got sick with pneumonia, causing her to miss six weeks of work and rack up over $5,000 in medical bills. These unforeseen expenses caused her to fall behind on other financial obligations, and before she knew it she was simply unable to make ends meet. Bankruptcy protection was the only way out for Ms. Herndon and her family. It's hard to see the abuse in real instances of need such as these, especially when many Americans live paycheck to paycheck.

Sadly Crystal Herndon is not the only worker to be forced into bankruptcy due to unavoidable medical expenses. According to a recent Harvard University research study 2 million Americans, including filers and their dependents, face the double jeopardy of illness and bankruptcy each year. Most of these medically bankrupt are middle-class homeowners with responsible jobs and health insurance coverage. Once illness strikes, high copayments, deductibles, exclusions from coverage, and other loopholes quickly overwhelm these families' budgets. Loss of income and health insurance often deepen this financial crisis when a breadwinner becomes too sick to work.

To add insult to injury, consumers like Crystal Herndon will potentially face an avalanche of litigation that they can't afford as a result of this bill. The bill requires the debtor in some cases to have to challenge big corporate lenders in court to prove they are eligible to seek relief under Chapter 7 of the bankruptcy code. In addition, this bill also allows creditors to threaten debtors with costly ligitation that will force many families to needlessly give up their legal rights.

In their continuing compassion, the Republicans have crafted this so-called reform so that a parent seeking child support from a bankrupt spouse will have to fight it out with creditors in order to receive payment. Meanwhile, this bill makes it easier for those seeking bankruptcy protection to lose their homes or be evicted by the landlords. Yet, those with million dollar mansions will be able to keep their homes even while seeking the same protection under the law. Nothing like a fair shake for America's working families.

Finally, Mr. Speaker, with all of the perks they've awarded to the big credit card companies, Republicans have done nothing to ensure that they are held accountable for their role in this consumer crisis. There is nothing is this bill that stops the abusive, predatory lending that lands too many Americans in bankruptcy in the first place.

Bankruptcy has always been about giving a fresh start to those who have fallen on hard times. The link between illness, job loss, and health insurance is a harsh reality in our country today. It is morally reprehensible to suggest that we exploit medical tragedies befalling honest, hardworking Americans in order to grant the wishes of the credit card companies.

I urge my colleagues to vote down this merciless legislation. Now is not the time to turn the tables on America's working families. Vote no on S. 256.

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

Mr. Speaker, I rise today to oppose this closed rule and S. 256. Once again, the majority has squelched debate on a controversial piece of legislation for no legitimate reason.

More than 35 Democratic amendments were offered in the Rules Committee yesterday. Yet none have been made in order. Why? There is no reason for limiting the debate in this manner.

The House came into session on Tuesday and Members will leave town later this afternoon after just 2 days of work. Even more, there was only one other bill of substance before the House this week. The time to debate this bill and its offered amendments is available. The willingness to conduct meaningful business, however, is the missing ingredient. A 1-hour debate on legislation containing such sweeping reforms is not the way to conduct the people's business.

The argument will be made that this has been 9 years in the making. But a lot of this measure has been overcome by time, and that will be discussed by others later.

I am particularly disappointed that an amendment I offered is not being allowed to come before this body for consideration. My amendment seeks to prevent the very bankruptcies that are

causing this Congress so much consternation and is germane to the discussion. It requires credit card companies to preserve a customer's interest rate prior to incurring medical expenses if the customer is unable to pay off the full medical expenses on time. It also prohibits hospitals from reporting delinquent patients for 5 years, provided that the patient is paying 20 percent of his or her monthly mandated medical expenses.

All the information we have available suggests that medical bills are the second leading cause of personal bankruptcy in the United States. It is, in my opinion, hypocritical to prevent debate on an amendment that could ameliorate some of the issues facing this bankruptcy reform legislation. Is not the whole point of this bill to make bankruptcy less frequent? If Members of Congress have ideas about how to accomplish that, should they not be heard?

Many other Members sought to introduce amendments, but have also been denied their opportunity to be heard. These amendments could have improved this legislation.

For example, the gentleman from Virginia (Mr. SCOTT) offered an amendment to exempt from the means test provision of debtors who have business losses incurred by a spouse who has died or deserted the debtor.

The gentleman from California (Mr. FILNER) offered an amendment that would exempt victims of identity theft. And the ranking member of the Rules Committee, the gentlewoman from New York (Ms. SLAUGHTER), offered an amendment that imposes restrictions on issuing credit cards to college students. But none of those amendments, or the 31 others, will be debated today because the rule on this bill is closed.

At this point, Mr. Speaker, I will insert a list of all 35 amendments which the Republican majority has blocked from being considered in the CONGRESSIONAL RECORD.

AMENDMENTS SUBMITTED TO THE RULES COMMITTEE FOR S. 256 AND DENIED CONSIDERATION BY THE RULE (H. RES. 211)

1) Emanuel/Delahunt/Dingell—prevents debtors from shielding their funds from bankruptcy liquidation through so-called ''asset protection trusts;''

2) Filner—exempts disabled veterans from the bill's means test;

3) Filner—exempts from the bill's means test consumers who are victimized by identity theft;

4) Inslee—exempts from the bill's means test consumers whose debts are the result of serious medical problems;

5) Delahunt—requires debtor corporations to file for bankruptcy where their principal place of business is located;

6) Sanders—establishes a ''usury rate'' for credit card companies, above which credit card companies cannot charge consumers;

7) Sanders—caps fees credit card companies can impose on consumers at $15;

8) Sanders—prohibits credit card companies from changing interest rates based on changes in consumers' credit information;

9) Sanders—prohibits credit card companies from raising interest rates based on consumer credit reports;

10) Ruppersberger—requires credit card solicitations to be accompanied by a brochure explaining the consequences of the irresponsible use of credit;

11) Schiff—exempts from the bill's means test consumers who are victimized by identity theft, if at least 51% of the creditor claims against them are due to identity theft;

12) Lofgren—exempts from the bill's means test 1) families facing bankruptcy due to a serious medical hardship that drains at least 50% of their yearly income, and 2) families who lose at least one month of needed pay or alimony due to illness;

13) Lofgren—exempt from the bill's means test a single parent who failed to receive child or spousal support totaling more than 50% of her or his household income;

14) Scott (VA)—exempts from the bill's means test provisions: 1) debtors who have business losses incurred by a spouse who has died or deserted the debtor 2) debtors who have had serious illness in their family and 3) debtors who have been laid off;

15) Scott (VA)—exempts from the bill's means test provisions debtors who have business losses incurred by a spouse who has died or deserted the debtor;

16) Scott (VA)—exempts from the bill's means test provisions debtors who have had serious illness in their family;

17) Scott (VA)—exempts from the bill's means test provisions debtors who have been laid off from their jobs through no fault of their own;

18) Nadler—sunsets the bill after 2 years;

19) Watt—prohibits annual credit card rates higher than 75%;

20) Watt—includes the costs of college in the calculation of debtor's monthly expense;

21) Ruppersberger—exempts from the bill's means test debtors who have declared bankruptcy due to high medical expenses;

22) Hastings (FL)—prevents credit card companies from increasing rates on consumers who use their credit cards to pay for extraordinary medical expenses; also prevents hospitals from generating negative credit information on consumers who are paying their bills in good faith;

23) Meehan—Exempts from the means test disabled veterans whose indebtedness occurred primarily as a result of an injury or disability resulting from active duty or homeland defense activities; closes a loophole in S. 256, which exempts only disabled veterans whose indebtedness occurs primarily while on active duty while failing to exempt disabled veterans whose indebtedness occurs after they have left active duty;

24) Jackson Lee—makes debts arising out of state sex offenses non-dischargeable in bankruptcy proceedings;

25) Jackson Lee—clarifies Congress' intent that nuclear liabilities be covered by the Price-Anderson Act, and not by bankruptcy laws;

26) Jackson Lee—makes debts arising out of penalties imposed on businesses for false tobacco claims non-dischargeable;

27) Jackson Lee—strikes the bill's means test provision;

28) Woolsey—requires credit counseling agencies to provide free services to recent veterans of the military who served in combat zones;

29) Slaughter—requires credit card companies to determine, before they approve a credit card, whether a student applicant has the financial means to pay off a credit card balance; it restricts the credit limit to minimum balances if the student has no independent income; and it requires parental approval for credit limit increases in the event that a parent cosigns the account;

30) Slaughter—applies the highest median income of any county or Metropolitan Statistical Area in the state to all residents of the state petitioning for bankruptcy protection;

31) Millender-McDonald—provides the bankruptcy courts a higher percentage of the fees collected when a debtor files for bankruptcy;

32) Maloney—ensures that debtors emerging from bankruptcy make child credit payments first, before payments on credit card debt. The current version of the bill does not ensure that child support payments will have priority over the other types of unsecured debts, such as credit card debt;

33) Meehan and Berman—provides a modest homestead exemption for people who have suffered a major illness or injury;

34) Jackson Lee—provides additional protections to debtors who are the victims of identity theft;

35) Jackson Lee—increases the means test limit on parochial school tuition expenses from $1,500 to $3,000, so that families Chapter 13 bankruptcy can keep their children in schools that conform to their deeply held religious beliefs.

Mr. Speaker, the House has adopted a new modus operandi. We saw it earlier this year with the class action bill, and we are seeing it again today.

It seems that if the Republican leadership deems legislation important, and that is their prerogative, it is willing to push through the other body's version without the opportunity for debate here in the people's House on any amendments. This new method does a great disservice to the people of this Nation. Even more, it stops Members, Democrats and Republican, from serving as thoughtful, effective legislators.

The House of Representatives is the people's House. The Founding Fathers envisioned a forum for lively debate on the issues of the day, not the controlled steering of selected legislation with no opportunity for meaningful change.

What also concerns me is the unworkable means test contained in this legislation. I am greatly disturbed, as I know all the residents of south Florida will be, that this means test includes disaster assistance as a source of revenue.

People forced into dire financial circumstances through natural disasters should find bankruptcy a source of relief. Considering disaster assistance as a source of revenue adds insult to injury and contradicts the government's efforts to help people get back on their feet.

This legislation, masquerading as protection against bankruptcy abuse, is really a protection for credit card companies and their predatory lending practices. This legislation does not protect the American people. This legislation protects the credit industry at the expense of the American people.

Increasingly, credit card companies market their product to riskier consumers, and now they want the Congress to protect them from the losses that are the foreseeable result of this ill-sighted business strategy. Why are we not debating legislation that would address those practices, instead of eviscerating a crucial safety net that Americans rely on when all else fails?

Mr. Speaker, should it pass, this bill will severely curtail the ability of Americans to obtain relief from bankruptcy without solving any of its underlying causes. Medical bills, unemployment, and predatory lending practices are at the root of this problem. In the long run, the net effect of this legislation will drive more Americans deeper into financial crisis and weaken our social structure and the Nation's economy.

I will not, and cannot, support such an attack on American consumers. I urge my colleagues to vote ''no'' on this closed rule and ''no'' on S. 256.

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

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

I want to point out, Mr. Speaker, to the gentleman from Florida that medical expenses are specifically covered in the bill, and all other extenuating circumstances are covered in section 102 of the bill allowing judicial latitude.

At this point, I would like to yield 4 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER), the distinguished chairman of the Judiciary Committee.

□ 1045

Mr. SENSENBRENNER. Mr. Speaker, I thank the gentleman from Georgia for yielding me time.

I rise in support of the rule for consideration of S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. This bill consists of a comprehensive package of reform measures that will improve bankruptcy law and practice by restoring personal responsibility and integrity to the bankruptcy system. It will also ensure that the system is fair for both debtors and creditors.

As we now consider this rule, and the legislation later today, I believe it is particularly important to keep in mind bankruptcy reform's extensive deliberative history before the Committee on Rules, the Committee on the Judiciary, and both bodies of Congress, which I would like to briefly summarize.

First, the bill represents the culmination of nearly 8 years of intense and detailed congressional consideration. The House, for example, has passed prior iterations of this legislation on eight separate occasions. Likewise, the other body has repeatedly registered its strong support for bankruptcy reform. Just last month, the bill passed there 74 to 25, marking the fifth time that body has overwhelmingly adopted bankruptcy reform legislation since 1998.

Second, S. 256 has benefited immensely from an extensive hearing and amendment process, as well as meaningful bipartisan and bicameral negotiations. Over the past four Congresses, the Committee on the Judiciary has held 18 hearings on the need for bankruptcy reform, 11 of which focused on S. 256's predecessors. The Senate Judiciary Committee likewise has held 11 hearings on bankruptcy reform, including a hearing held earlier this year.

In the 105th Congress, 4 days were devoted to the Committee on the Judiciary's markup of bankruptcy reform legislation.

In the 106th Congress alone, the Committee on the Judiciary entertained 59 amendments over the course of a 5-day markup on bankruptcy reform legislation, which included 29 recorded votes. On the floor, 11 more amendments were considered.

In the 107th Congress, the Committee on the Judiciary considered 18 amendments during the course of its markup of bankruptcy reform legislation, and the House, thereafter, considered five amendments.

In the last Congress, the Committee on the Judiciary entertained nine amendments to the bill, and five amendments were considered on the House floor. Also in the last Congress, the Committee on Rules made two amendments in order in connection with a similar bill, addressing bankruptcy reform, which was considered on the floor.

Last month, the Committee on the Judiciary entertained 23 more amendments, each of which has been soundly defeated.

Mr. Speaker, I have over here the paper record of the House consideration of bankruptcy reform legislation over the last four Congresses. Here's the committee report on this bill, over 500 pages long. We have a copy of the House version of the bill, which is over 500 pages long. We have the committee report from 2003. We have a conference report from the 107th Congress. We have a committee report from the 107th Congress. We have a committee report from the 106th Congress. We have a committee report earlier in the 106th Congress, one from the 105th Congress, and then we have a committee report from the 105th Congress on the House side. All of these are debates in the CONGRESSIONAL RECORD when this bill has come up, and we have had conference reports filed, amendments filed, original bills filed.

There has been plenty of process on this legislation. The time to pass it is now, and that is why this rule is coming up in the way it is structured the way it is.

Mr. Speaker, I thank the gentleman for yielding again for the time.

Mr. Speaker, I rise in support of this rule for consideration of S. 256, the "Bankruptcy Abuse Prevention and Consumer Protection Act of 2005." S. 256 consists of a comprehensive package of reform measures that will improve bankruptcy law and practice by restoring personal responsibility and integrity to the bankruptcy system. It will also ensure that the system is fair for both debtors and creditors.

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Third, it must be remembered that S. 256 is a result of extensive bipartisan and bicameral negotiation and compromise. For example, conferees during the 106th Congress spent nearly 7 months engaged in an informal conference to reconcile differences between the House and Senate passed versions of bankruptcy reform legislation. In the 107th Congress, conferees formally met on three occasions and ultimately agreed—after an 11-month period of negotiations—to a bipartisan conference report. The legislation before us today represents a delicate balance and various compromises that have been struck over the past 7 years.

Fourth, and perhaps most importantly, the need for bankruptcy reform is long-overdue and should not be further delayed. Every day that passes by without these reforms, more abuse and fraud goes undetected.

Mr. Speaker, there simply is no reason to further amend this legislation given its uniquely extensive deliberative record. Those who come to the floor today and complain about lack of

process or the need to further refine this legislation—simply oppose bankruptcy reform. Accordingly, I believe this rule is appropriate, and urge Members to support it.

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

My respect for the chairman of the Committee on the Judiciary is immense, and he has thrust all of these hearings and all that were in committee where 40 Members of the Committee on the Judiciary had an opportunity to participate.

What we are talking about is today, 35 Members of the House of Representatives, 35 amendments are not being permitted today. So I guess the 40-plus people are the ones who are representing the near 395, 40-plus none for the American people. That would be what I would put on the table from the minority side.

Mr. Speaker, I am delighted to yield 3 minutes to the gentlewoman from California (Ms. MATSUI), our newcomer, who is making her first statement as a Committee on Rules member.

(Ms. MATSUI asked and was given permission to revise and extend her remarks.)

Ms. MATSUI. Mr. Speaker, I thank the gentleman from Florida for yielding me this time.

I rise in opposition to this rule. We have before us a misguided attempt to reform our bankruptcy system. We have heard cries that this system is being abused and is corrupted; and while there is need for reform, the proposal before us today contains a number of unintended consequences, consequences that would deprive consumers of the protection they deserve, hurt children, hurt families and neglect our veterans.

During the Committee on the Judiciary markup, numerous amendments were offered to correct these provisions, yet amendment after amendment was voted down, not on the merits of the amendments but because there was a backroom deal to move this legislation through the House without any changes. The committee held a sham markup.

Again, in the Committee on Rules, a number of amendments were offered to allow a debate on these issues, but not a single one was made in order today. In certain cases, my Republican colleagues acknowledged the merits of the amendments, but maintained it was simply not the time to address the issue. I have to disagree.

I am particularly disappointed that the very reasonable amendment offered by the gentleman from California (Mr. SCHIFF) was not made in order. The amendment is narrowly tailored to exempt from the means test consumers with 51 percent of their debt caused by someone who stole their identity.

This amendment makes sense. I am sure that most everyone at some time in their life has experienced the frustration of losing their wallet. First, you have to call all the credit card companies to cancel service. Then you may have to close and later reopen your checking account. Then you may have to take a trip down to DMV to get a new driver's license. It is an ordeal.

But these days, losing your wallet can even lead to greater problems. To then realize someone racked up thousands of dollars of debt after stealing your identity is just awful. No one should ever have to pay for a crime someone else committed.

Those on the other side of the aisle say they sympathize with the issue and would like to address this matter at some point in the future; but I ask, why do we not do this now? What are we waiting for? What better place to talk about the rights of bankrupted identity theft victims than in the bankruptcy reform bill?

Just yesterday, an article ran in the New York Times about another security breach potentially leaking Social Security numbers, driver's licenses, and addresses of over 300,000 people.

We all see the headlines. Identity theft poses an enormous financial risk to the average American. No one deserves a bill for someone else's crime, but the Republican majority seems to think so. Their legislation would punish the victims of identity theft, and the refusal to adopt this very simple fix raises real questions about who they are fighting for. I believe this amendment is very timely and appreciate the attention the gentleman from California (Mr. SCHIFF) has brought to this issue.

I know this legislation has been around since 1998, but that does not excuse us from being unresponsive to real issues affecting Americans today.

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

I want to thank the gentleman from Wisconsin, distinguished chairman of the Committee on the Judiciary, for bringing forth those statistics and that stack of documents that he just went over; and I want to add one more statistic to that, and this is that since the 105th Congress, the House and the Senate have passed bankruptcy reform legislation a dozen times, with a vote tally of 2,455 for and 871 against.

To my distinguished colleague from Florida, in regard to the amendment process in the Committee on Rules, my colleague knows that the other side was offered an amendment in the nature of a substitute. That substitute amendment could have included all 35 Democrats, who my colleagues allege were shut out. Every one of those 35 amendments could have been included in an amendment in the nature of a substitute; but apparently they just could not get their act together, did not have an amendment and passed on that opportunity.

In regard to the gentlewoman from California and the concerns about identity theft, opponents of the means test of the bankruptcy legislation have attempted to claim that a debtor should be except from the means test if the debt is related to identity theft. This is a red herring, Mr. Speaker, because consumers who are victims of identity theft do not owe the debts that result from identity theft; and, therefore, it is not an issue addressed by the bankruptcy court.

We all understand the sentiment of trying to help identity theft victims. Amendments related to identity theft, though, are not necessary. They would inadvertently do serious harm to consumers and create a significant potential for fraud and abuse. A consumer who is victimized when an identity thief establishes credit in the consumer's name is not liable for any of the debts incurred by the identity thief. The maximum amount I think is $50, and that is even waived by the credit card companies if it is proved to be fraudulent. Bankruptcy relief is, therefore, not necessary in regard to identity theft.

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume before yielding to the distinguished ranking member to respond to my colleague from Georgia by indicating, the last time I looked at the rules, it allowed that individual Members have a right to make amendments, and we are not required to offer a substitute.

Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Ms. SLAUGHTER), my good friend.

(Ms. SLAUGHTER asked and was given permission to revise and extend her remarks, and include extraneous material.)

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman for the time.

The rule we are debating, that we have made today is a closed rule which means that the Members of Congress who brought 35 amendments to the Committee on Rules will not have a chance to bring them up.

This closed rule means that the elected representatives of the people will never have the opportunity to consider the amendments and decide for themselves whether or not they would make the bankruptcy bill a better piece of legislation.

I personally think that amendments protecting our men and women returning from military service in Iraq and Afghanistan would be a good idea, and I feel very strongly that the amendment protecting the victims of identity theft from bankruptcy is an important measure that should be debated on the House floor. After all, Americans are and should be very concerned about identity theft. AARP said it is one of the top five issues concerning seniors today.

Just to give my colleagues an idea of how concerned our fellow Americans should be about this, Lexis-Nexis and GM MasterCard are both recovering from wide-scale security breaches which may have placed millions of

Americans at risk for having their identity stolen. In fact, just 2 days ago, Lexis-Nexis identified more than 300,000 Americans that their personal information may have been stolen. In some cases, it will take those people 6 years to get back their identity. It is a very real problem for our country.

But if my colleagues in the majority do not agree that protecting Americans from identity theft is an important issue, why will they not let the body debate it? If they want to, they can always vote against it. That is the way things are supposed to happen here in a democracy. Instead, they have instituted another closed rule and will not allow us to debate the issues.

This is the fifth Congress that we have debated bankruptcy reform, and we have heard that this morning. To be fair, we have not debated this bill under open rules in the past, but we have certainly debated them under rules that allowed amendments.

This chart shows the number of amendments that the Committee on Rules made in order on this bill in every Congress since the 105th, and I insert in the RECORD at this point a list of the rules.

NUMBER OF AMENDMENTS MADE IN ORDER ON BANKRUPTCY BILLS—105TH–109TH CONGRESS

105th Congress (H. Res. 452)—12 amendments made in order.

106th Congress (H. Res. 158)—11 amendments made in order.

107th Congress (H. Res. 71)—6 amendments made in order.

108th Congress (H. Res. 147)—5 amendments made in order.

109th Congress (H. Res. 211)—Closed Rule, 0 amendments made in order.

This chart shows a disturbing pattern, Mr. Speaker, a pattern that has become common practice here in the House.

□ 1100

In every Congress, Republican leaders have allowed fewer and fewer amendments to be debated. We started at 12 amendments in the 105th Congress; and in the 109th Congress, we have a completely closed rule. Zero amendments are in order. There is less and less democracy in this House, and every Congress fewer voices are being heard on the floor.

The Democrats on the Committee on Rules last month issued a report studying the disturbing trend toward less democracy and deliberation in this House. During this last Congress and this closed rule today convinces me we are only getting worse.

So, Mr. Speaker, I say again we have disallowed the amendments that would have let us make this a better bill, a bill that would protect more vulnerable people in this country, including our soldiers who have returned from Iraq, most of those in the National Guard and Reserves, many of whom are losing their houses because they were called back time and again and were to able to maintain their houses. It is a disgrace we were not allowed to bring that amendment to the floor.

Mr. GINGREY. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I would like to lay to rest the fact that we have not had a full and complete debate on this.

This year, on March 16, the Committee on the Judiciary had a full markup on this bill. Anybody who wished to offer amendments was allowed to do so. Our committee publishes the complete transcript of markups as a part of the committee report. This transcript goes on for 160 pages in the committee report, which shows that everybody had an opportunity to speak their peace. There were 23 amendments that were offered, and all of them were voted down by overwhelming margins.

Now, amending this bill is what the people who wish no bankruptcy reform have in mind because they know the other body has had difficulty in finding time to debate this bill and vote cloture. The gentlewoman from New York (Ms. SLAUGHTER), whom I greatly respect, has voted against this bill every time it has come up when she has cast a vote in a rollcall. Much of the complaints we are going to be hearing are coming from Members who wish to sink this bill through amendments. They have never supported it in the past. They are against it even if it were amended, and that is why the rule is the way it is.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Speaker, while some who file bankruptcy have been financially irresponsible, the overwhelming majority of those who file do so as a result of divorce, major illness, or job loss. Half of those who go into bankruptcy do so because of illness, and most of them had health insurance but still could not pay their bills.

If the purpose of the legislation is to try to deal with those who abuse credit, we ought to be able to distinguish them from the hard-working Americans who unfortunately become ill, those who have an unforeseen loss of a job, or whose spouses desert them after a business failure.

Mr. Speaker, in addition to those who get sick or lose their job, this bill will also hurt small business entrepreneurs. They go into business and consider a risk-benefit ratio that includes the possibility of making a lot of money, but also includes the possibility of losing everything and ending up in bankruptcy. With the passage of this legislation, those entrepreneurs and their families will risk not only losing everything but also being denied a fresh start if the business goes under. They will be stripped down to essentials like food and rent for 5 years, and that is average rent for the area, not what they may have been living in.

Finally, we ought to consider the impact on society of increasing the number of people who conclude that they have nothing to lose. It is ironic that the last time we debated bankruptcy reform on the floor of the House, a farmer had driven his tractor into the pond near the Washington Monument, tying up traffic for a long time. He was quoted as saying, ''I am broke. I am busted. I have the rest of my life to stay here.''

People who feel they have nothing to lose can become dangerous to society. Denying bankruptcy protection to people who need a fresh start will only increase the number of people in our community who feel they have nothing to lose.

This legislation does not differentiate between those who abuse the system and those who deserve a fresh start. This rule does not allow amendments to fix the bill; and, therefore, the rule should be defeated.

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

In the 105th Congress, H.R. 3150, bankruptcy reform, passed 306–118.

In the 106th Congress, H.R. 8333 passed the House, 313–108.

In the 107th Congress, H.R. 333 passed the House 306–108.

In the 108th Congress, H.R. 975 passed the House 315–113.

The gentleman from Virginia (Mr. SCOTT) was not one of those voting in the affirmative on any of those occasions, but I want to point out to the gentleman in regard to his concern over medical and health-related expenses for a debtor, spouse, and dependents, on line 23, page 8, continuing through line 10 page 9, this covers the treatment of medical expenses for the debtor, spouse of the debtor, and dependents of the debtor. It expressly includes not just actual medical expenses but expenses for health insurances, disability insurance, and health savings accounts.

Mr. Speaker, put another way, contrary to misrepresentations by opponents, the needs-based test not only takes into account the full range of medical expenses by the debtors, but it also covers the spouse and dependents. This is just one of three provisions for a member of the household or immediate family. The provision includes for the monthly expense of the debtor, expenses incurred for the care and support of an elderly, chronically ill or disabled member of the debtor's immediate family. This includes parents, grandparents, siblings, children and grandchildren of the debtor, among others.

So medical in any situation, Mr. Speaker, medical or otherwise, no debtor is denied access to bankruptcy relief. All S. 256 says is that, in a limited range of cases, a debtor with meaningful capacity to repay may have to file in chapter 13 as opposed to chapter 7. In no case is a debtor denied access to the bankruptcy system.

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Speaker, the chairman of the Committee on the Judiciary is correct when he says 8 years. I dare say we could spend another 8 years, but given the quality of this bill, given the reality that it imposes no responsibility whatsoever on the credit

card industry, naturally we will be opposed. Responsibility. We hear personal responsibility. What about corporate responsibility? Responsibility is a two-way street.

To get a fair and balanced bill, we need amendments. We need amendments like the one that the gentleman from North Carolina and myself filed which would have limited the interest on credit cards to 75 percent.

Sure, that might have shifted, if you will, some of us to support the bill. But, no, the credit card industry bought and paid for this legislation. Somewhere north of $40 million was part of that effort. Let us not kid ourselves. This bill was written for and by the credit card industry. It has nothing to do with the consumer. But that is why we needed amendments, to make it fair and to make it balanced. Let us not just use those words.

Mr. GINGREY. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER).

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

Mr. DREIER. Mr. Speaker, this is a great day. Not only are we going to be able to see the Nationals play the first home game in 34 years, but we are going to finally pass bankruptcy reform legislation that can get to the President's desk and be signed.

Also, tomorrow many of us are going to be paying our taxes. We have constituents who are complaining justifiably about the high cost of gasoline.

On average, passage of this legislation will save a family of four $400 a year, and $400 a year is a very important amount of money for an awful lot of people in this country, and that is the price that they are paying because of the abuse that we have seen of our bankruptcy law that has been going on for years and years and years.

I happen to believe that it is essential that we provide that $400 in relief to the American people just as quickly as we can. We know, as the gentleman from Wisconsin (Mr. SENSENBRENNER) has said, and I congratulate the gentleman for all of the effort that he has put into this, that we for years and years and years have been going through the amendment process. We have had a wide range of concerns brought to the forefront, and we have been able to address them. I believe that we are doing the right thing by moving ahead with this measure.

Mr. Speaker, any Member who votes no on this rule is voting against bankruptcy reform. They are voting against bankruptcy reform. Why? Because it is true 35 amendments were submitted to us in the Committee on Rules. We made it very clear that one of the things that we offered when we came to majority status was the chance to give the minority an opportunity to offer a substitute. The gentleman from Wisconsin (Chairman SENSENBRENNER) came before the Committee on Rules and made it very clear to us. He requested a closed or a modified closed rule.

Let me say, a modified closed rule means that the minority is offered a chance at providing a substitute, cobbling together a package that in fact is an alternative to the measure that we have brought forward.

The minority had an opportunity to do that. What did they choose to do? Members of the minority did not come forward with a substitute. They chose to offer what I describe as cut-and-bite amendments, going through these issues and amending and amending and amending.

Mr. Speaker, we would have made in order a substitute had they given it to us.

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

Mr. DREIER. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, I recall yesterday when the death tax repeal was on the floor. It was a similar rule, and the minority was offered a chance to offer a substitute. They offered a substitute which was voted on and debated in the House of Representatives. But that rule passed by voice vote. So the rule under which we considered the death tax repeal yesterday is the same type of rule that we are considering today, except that the minority on this bill decided not to offer a constructive alternative substitute.

Mr. DREIER. Mr. Speaker, reclaiming my time, the chairman of the Committee on the Judiciary is absolutely right. We reported out a modified closed rule that provided the gentleman from North Dakota (Mr. POMEROY) an opportunity to not only offer his substitute, but he could have offered a motion to recommit. So two bites at the apple. The exact same opportunity existed on this bill which has gone through Congress after Congress with an excess of 300 votes in the past.

We said a substitute would have been made in order if it had been submitted to us in the Committee on Rules.

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

Mr. DREIER. I yield to the gentleman from Massachusetts.

Mr. DELAHUNT. Mr. Speaker, the gentleman made a statement, if I understand correctly, that passage of this proposal before us today would translate into a savings of $400 for each family in America.

Mr. DREIER. Mr. Speaker, that is absolutely right. If you look at the cost that exists today because of abuse of bankruptcy law, the abusive filings of bankruptcy, there is, on average, for a family of four of $400 per year.

□ 1115

Mr. DELAHUNT. If the gentleman will yield further, the $400 would actually go back to the American family? Is that what the chairman is suggesting?

Mr. DREIER. If I could reclaim my time, what I am suggesting is that because of abuse of bankruptcy filings that take place today, that is a cost that is imposed on American consumers to the average family of four of in excess of $400.

That is the reason it is absolutely essential, Mr. Speaker, that we pass this legislation.

Mr. DELAHUNT. Will the gentleman yield further?

Mr. DREIER. I have yielded three times. If I could finish my statement, I would like to. We have other people who would like to participate. I know that my dear friend from Florida (Mr. HASTINGS) will be more than happy to yield further time to the gentleman from Massachusetts.

Mr. Speaker, we have been waiting for years and years and years to get to the point where we could get a measure to the desk of the President of the United States so that he can sign it, so that we can deal with this issue and finally bring about responsible reform of our bankruptcy law.

We happen to believe very passionately that people should be accountable for their actions. We do not want anyone to be deprived of access to file for bankruptcy, but we know full well that this has been abused for such a long period of time. That is why we are here today and that is why I am convinced, Mr. Speaker, that even though we will see opposition to this rule, at the end of the day, we will see very strong bipartisan support to reform our bankruptcy law.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 2 minutes to my good friend, the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, with that generous yielding, I would like to yield to the distinguished gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. I would like to respond very quickly. If medical expenses wipe you out and you cannot pay them, under this bill you cannot get into chapter 7 if you can pay $166 a month on your bills, however much they are. There could be hundreds of thousands of dollars that you could never pay.

Ms. JACKSON-LEE of Texas. I thank the distinguished gentleman.

Mr. Speaker, I rise today to answer my good friend, the chairman of the Committee on Rules, to simply say the reason why a substitute was not offered is because the bankruptcy code as it now stands addresses the needs of the American people. It is interesting that the Republicans want to tell us what kind of amendment to offer when we had 35 amendments that would have protected the American people.

Mr. Speaker, I am outraged because the bankruptcy bill stabs the American people in the back. The reason why I say that is because we have a bankruptcy code that allows for the discretion of the judiciary in the bankruptcy courts to be able to determine whether your case is frivolous.

But now we have put in place what we call a means test which indicates that hardworking American families, middle-class families who have faced catastrophic illnesses, divorce, loss of job in this horrible economy, these individuals will be barred from entering the bankruptcy court because they do not meet the IRS guidelines. Who wants to meet the IRS guidelines? We already know what the Internal Revenue Service will do to you. All we wanted to do is to give more leeway.

If you listen to Professor Elizabeth Warren of Harvard University, she will tell you that the time for the bankruptcy bill has long passed. It is an 8-year-old bill that was written more than 8 years ago. Now we find that more consumer bankruptcies have declined. There are less consumer bankruptcies. But if you look at what the President is going to do with Social Security and take so much money out of our economy and break the American people, you are going to see an upsurge. But what you are going to see is the American people, because of this bankruptcy bill, losing their house, pulling their children out of school, not being able to make ends meet. It is an outrage. This rule should be defeated because the American people are being stabbed in the back. It is a disgrace.

I ask for a ''no'' vote on the rule.

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

In response to the gentlewoman from Texas, Mr. Speaker, a substitute amendment was offered in every other Congress that bankruptcy reform was considered. Every other Congress in which bankruptcy reform was considered, the minority submitted a substitute amendment. Why not now? I have asked that question several times, and I still have no answer.

In regard to health care expenses, and I am reading from a March 29, 2005, CRS report for Congress titled ''Treatment of Health Care Expenses under the Bankruptcy Abuse Prevention and Consumer Protection Act'':

''Conclusion. Health care expenses will generally be considered in one of two contexts in a bankruptcy filing. Significant expenses incurred prior to the bankruptcy filing may be calculated as unsecured claims; if the debtor cannot afford to pay 25 percent of unsecured claims or $100 a month, the debtor may be eligible to file under chapter 7.

''Ongoing health care expenses and health insurance premiums may be deducted from the debtor's monthly income. Factoring in these expenses may also reduce the debtor's disposable income under the means test.''

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield 2 minutes to my good friend, the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, I rise in strong opposition to this unfair, undemocratic closed rule and to the underlying bankruptcy bill. This lopsided bill will make it harder for families and seniors with debt problems arising from high medical expenses, job loss, divorce, or other financial hardships to address their problems while doing nothing to rein in the credit card companies whose practices have led to much of the rise in bankruptcies.

S. 256 presumes that bankruptcy filers are simply bankruptcy abusers looking to game the system and avoid paying their bills, ignoring the clear evidence that the overwhelming majority of people in bankruptcy are in financial distress because of job loss, medical expense, divorce, or a combination of these causes.

Mr. Speaker, an important and controversial bill like the bankruptcy bill deserves a real debate. Members deserve the opportunity to consider a wide range of amendments. For the Republican leadership and the Republican members of the Committee on Rules to propose that we consider a bill that is tilted toward the credit card companies and as complex as this bill is without giving Members any opportunity to amend it on the floor with only 30 minutes per side for general debate is a travesty and a gross abuse of power.

When this bill was in the Committee on the Judiciary, we had a pseudo-markup that lasted all day and was a complete embarrassment and a waste of time for all of the members, for the Republicans would not even consider one amendment, no matter how meritorious or beneficial to the American people, even if the amendment addressed issues not previously considered because of the Republican leadership's insistence on reporting out a clean bill in order to avoid a conference committee.

As a result, important, thoughtful amendments on such subjects as protection on domestic violence victims from eviction, disabled veterans, alimony and child support, exemptions for medical emergencies and job loss, underage credit card lending, and a homestead exemption for seniors, predatory lending and payday loans all were rejected by the Committee on the Judiciary.

Shame on you Republicans.

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

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 1 minute to my friend, the gentlewoman from California (Ms. LEE).

Ms. LEE. I thank the gentleman for yielding me this time and for his leadership.

Mr. Speaker, I rise in opposition to this rule and to this morally bankrupt bill that puts corporate greed over fairness for ordinary folks. This bill takes the phrase ''kick them when they are down'' to a whole new level. What about the fact that half of the people who file for bankruptcy protection are forced to do so because of high medical costs, loss of a job, or scam loan sharks? This bill would say to these people, the answer is, of course, too bad.

Make no mistake, Mr. Speaker, this bill is a big-time corporate payoff that was drafted with one overriding goal in mind, that is, profits, profits, profits.

I am all for curbing abuses in bankruptcy and would suggest that we start by closing bankruptcy loopholes for millionaires and taking steps to address predatory lending and payday loans rather than a one-sided, harsh industry payoff. This bill should include real solutions to address the really hard problems fueling the financial difficulties so many in this Nation are facing. We should focus on the true abusers and not the working families that have played by the rules.

Mr. Speaker, we need to have a bankruptcy bill that addresses the real abusers. This is a morally bankrupt bill.

Mr. GINGREY. Mr. Speaker, I yield myself 1 minute.

The gentlewoman from California brought up the issue about bankruptcy reform harming veterans. In speaking to that, Senate 256 needs-based test includes several safeguards and exceptions for special circumstances, including those of veterans: a specific reference to a debtor who is subject to a call or ordered to active duty in the Armed Forces to the extent that such occurrences substantiate special circumstances.

S. 256 means test has a special exception just for debtors who are disabled veterans if the indebtedness occurred primarily during a period when the debtor was on active duty or performing a homeland security activity. The bill excuses a debtor if he or she is on active military duty in a military combat zone from the mandatory credit counseling and financial management training requirements.

I could go on and on, Mr. Speaker; but we are addressing, as we always have on this side of the aisle, the special needs of our great veterans of this country.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 2 minutes to my good friend, the gentlewoman from New York (Mrs. MALONEY).

(Mrs. MALONEY asked and was given permission to revise and extend her remarks.)

Mrs. MALONEY. Mr. Speaker, I rise in opposition to this rule. There is much that should be law in this bill; but as written, it should not pass. If this bill becomes law, children will have to compete for the first time with credit card companies in State court for the limited assets of debtors emerging from the bankruptcy process.

I believe that there are many good parts of this bill; but as a mother I came to Congress to protect the rights of children, not to make their interests second to those of credit card companies. Congress has always insisted that debtors should take care of their children before their credit cards, and we

should not undermine this important family value.

I am a strong supporter of the netting provisions of the bill. These provisions provide for the orderly unwinding of complex financial transactions when one participant becomes insolvent. Alan Greenspan has said these provisions reduce uncertainty for market participants and reduce risk by making it less likely that the default of one financial institution would have a domino effect on others. I support this; and as a New Yorker, I am really concerned that these provisions go into effect to protect the financial sector in the event of another terrorist attack. And I agree we need to build savings.

But these positive aspects of the bill are outweighed by an unacceptable feature that the majority has refused to address, the fact that the bill pits child support claimants against credit card companies in State court for the assets that the debtor has when she or he goes into bankruptcy. In other words, kids will lose.

I offered an amendment to address this, but the Committee on Rules did not make it in order. They did not make other important amendments that would protect victims of medical catastrophes, of identity theft and many others. This is very, very important. The sponsors say that they take care of this, but none of their steps address the new threat created by the bill to protect children from having to fight credit card companies in State court. We have never done this before. We should not leave this as a legacy of this Congress. We can get this right. We should have put children first. We must vote against this rule and the bill.

Mr. GINGREY. Mr. Speaker, I yield myself 1 minute.

In response to the gentlewoman, I have got a letter from the National Child Support Enforcement Association, February 8, 2005, that I will insert for printing in the RECORD.

Let me just read one paragraph, the first and most important:

''The National Child Support Enforcement Association is a membership organization representing the child support community—a workforce of over 63,000 child support professionals. For the past 5 years, it has strongly supported the enactment of bankruptcy reform because the treatment of child support and alimony under present bankruptcy law so desperately needs reform. We applaud your continuing efforts since the mid-1990s to reform the bankruptcy system and welcome your introduction of S. 256. The bankruptcy bill, S. 256, like the reform bills of the last three Congresses and the signed conference report of 2002, includes provisions crucial to the collection of child support during bankruptcy.''

NATIONAL CHILD SUPPORT ENFORCEMENT ASSOCIATION,
Washington, DC, Feb. 8, 2005.

Re: Child Support Provisions in S. 256

Hon. CHUCK GRASSLEY,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR GRASSLEY: The National Child Support Enforcement Association is the membership organization representing the child support community—a workforce of over 63,000 child support professionals. For the past 5 years it has strongly supported the enactment of bankruptcy reform because the treatment of child support and alimony under present bankruptcy law so desperately needs reform. We applaud your continuing efforts since the mid 1990s to reform the bankruptcy system and welcome your introduction of S. 256. The Bankruptcy Bill, S. 256, like the reform bills of the last three Congresses and the signed conference report of 2002, includes provisions crucial to the collection of child support during bankruptcy.

With each day that passes under current law, countless numbers of children of bankruptcy debtors are subject to immediate interruption of their on-going support payments. In addition, during the lengthy 3 to 5 years duration of consumer bankruptcies as they happen every day under present law, debtors often succeed in significantly delaying or even avoiding repayment of child support and alimony arrearages altogether. Hardest hit by these effects of current bankruptcy law are former recipients of welfare who are owed support arrears but are stuck waiting until the bankruptcy is completed before such debts can be collected. Families who are dependent on obtaining their share of marital property for survival may now find under present bankruptcy law that such debts are discharged. And, worst of all, under present law significant collection tools used to require the payment of current child support needed by the custodial parent to feed and clothe children may be rendered ineffective after a bankruptcy petition is filed. Today, a bankruptcy filing may delay or halt the collection of support debts through the federally mandated earnings withholding and tax refund intercept programs, the license and passport revocation procedures, and the credit reporting mandates.

S. 256 would provide these children with first priority in the collection of support debts, allow the enforcement of medical support obligations, prevent any interruption in the otherwise efficient process of withholding earnings for payment of child support, and insure that during the course of a consumer bankruptcy all support owed to the family would be paid, and paid timely. It will allow state court actions involving custody and visitation, dissolution of marriage, and domestic violence to proceed without interference from bankruptcy court litigation.

We, therefore, urge the members of the Conference Committee and the leadership of Congress to enact this important piece of legislation with its long overdue bankruptcy reforms.

Sincerely,

MARGOT BEAN,
President. National Child Support Enforcement Association

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield 5 seconds to the gentlewoman from New York (Mrs. MALONEY) for the purpose of making a unanimous consent request.

Mrs. MALONEY. Mr. Speaker, I request permission to place in the RECORD, in response to this statement, statements by Bar Associations across this country, women's organizations, women's legal defense, asserting what I have said that children are put second to credit card companies.

The material referred to is as follows:

NATIONAL WOMEN'S LAW CENTER,
Washington, DC, March 14, 2005.

Re: Oppose H.R. 685, The Bankruptcy Act of 2005

Hon. JOHN CONYERS, Jr.,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN CONYERS: The National Women's Law Center is writing to urge you to oppose H.R. 685, a bankruptcy bill that is harsh on economically vulnerable women and their families, but that fails to address serious abuses of the bankruptcy system by perpetrators of violence against patients and health care professionals at women's health care clinics.

This bill would inflict additional hardship on over one million economically vulnerable women and families who are affected by the bankruptcy system each year: those forced into bankruptcy because of job loss, medical emergency, or family breakup—factors which account for nine out of ten filings—and women who are owed child or spousal support by men who file for bankruptcy. Contrary to the claims of some proponents of the bill, low- and moderate-income filers—who are disproportionately women—are not protected from most of its harsh provisions, and mothers owed child or spousal support are not protected from increased competition from credit card companies and other commercial creditors during and after bankruptcy that will make it harder for them to collect support.

The bill would make it more difficult for women facing financial crises to regain their economic stability through the bankruptcy process. H.R. 685 would make it harder for women to access the bankruptcy system, because the means test requires additional paperwork of even the poorest filers; harder for women to save their homes, cars, and essential household items through the bankruptcy process; and harder for women to meet their children's needs after bankruptcy because many more debts would survive.

The bill also would put women owed child or spousal support who are bankruptcy creditors at a disadvantage. By increasing the rights of many other creditors, including credit card companies, finance companies, auto lenders and others, the bill would set up an intensified competition for scarce resources between mothers and children owed support and these commercial creditors during and after bankruptcy. The domestic support provisions in the bill may have been intended to protect the interests of mothers and children; unfortunately, they fail to do so.

Moving child support to first priority among unsecured creditors in Chapter 7 sounds good, but is virtually meaningless; even today, with no means test limiting access to Chapter 7, fewer than four percent of Chapter 7 debtors have anything to distribute to unsecured creditors. In Chapter 13, the bill would require that larger payments be made to many commercial creditors; as a result, payments of past-due child support would have to be made in smaller amounts and over a longer period of time, increasing the risk that child support debts will not be paid in full. And, when the bankruptcy process is over, women and children owed support would face increased competition from commercial creditors. Under current law, child and spousal support are among the few debts that survive bankruptcy; under this bill,

many additional debts would survive. But once the bankruptcy process is over, the priorities that apply during bankruptcy have no meaning or effect. Women and children owed support would be in direct competition with the sophisticated collection departments of commercial creditors whose surviving claims would be increased.

At the same time, the bill fails to address real abuses of the bankruptcy system. Perpetrators of violence against patients and health care professionals at women's health clinics have engaged in concerted efforts to use the bankruptcy system to evade responsibility for their illegal actions. This bill does nothing to curb this abuse.

The bill is profoundly unfair and unbalanced. Unless there are major changes to H.R. 685, we urge you to oppose it.

Very truly yours,

NANCY DUFF CAMPBELL,
Co-President.
MARCIA GREENBERGER,
Co-President.
JOAN ENTMACHER,
Vice President and Director, Family Economic Security.

LEGAL MOMENTUM,
Washington, DC, February 28, 2005.

DEAR SENATOR: Legal Momentum is writing to you today to urge you to oppose S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. Legal Momentum is a leading national not-for-profit civil rights organization with a long history of advocating for women's rights and promoting gender equality. Among our major goals is securing economic justice for all. In this regard we have worked to end poverty; improve welfare reform; create affordable, quality childcare and guarantee workplace protections for survivors of domestic violence. The bankruptcy system is another crucial safety net for women, and Legal Momentum is concerned that the changes to the bankruptcy system proposed in S. 256 would be harmful to the economic security of women and families. In addition, the legislation fails to hold perpetrators of violence against workers and patients of women's health care clinics accountable for their actions.

The large majority of women who file for bankruptcy do so because of unemployment, medical bills, divorce, or because they are owed child support by men who file for bankruptcy. And because women are more likely to be caring for dependent children or parents *and* have lower incomes and fewer assets than men, they are more likely to seek bankruptcy as a result of a divorce or a medical problem. In 2001, women represented 39% of households filing for bankruptcy, while men filing independently represented only 29%. Married couples represented 32%. Single mothers are the group most at risk for bankruptcy—in the last 20 years, bankruptcy filings for female-headed households have increased at more than double the rate of bankruptcies in other households. This legislation will make it more difficult for women already struggling to achieve economic independence to access the bankruptcy system. The proposed means test will make filing for bankruptcy more complex, it will be more difficult to keep homes and cars from being repossessed, and even if a bankruptcy is successfully filed, more debts will main.

Even the child support provisions in the legislation will not help women and children. If the parent who owes child support is the debtor, the bill will divert more money to other creditors and allow more non-child support debts to survive bankruptcy. As a result, the custodial parent, usually the mother, will have to compete with other creditors, including credit card companies, for the debtor's limited income.

Legal Momentum is concerned that, unlike in the conference report of last year's bankruptcy legislation, S. 256 does not include a provision to prevent perpetrators of clinic violence from declaring bankruptcy to avoid responsibility for their actions against patients and health care providers. Please include language that would insure that these perpetrators of violence cannot use the bankruptcy system to protect themselves. The pocketbooks of violent offenders are protected, while hardworking women struggling to make ends meet and feed their families are denied access to a system that could help and provide them with hope for the future.

Legal Momentum believes that if S. 256 is enacted, the economic effects on more than 1.2 million women each year will be devastating, and we strongly urge you to oppose the legislation. If you have any questions, please contact Legal Momentum's Policy Office at 202/326–0044.

Sincerely

LISALYN R. JACOBS,
Vice President for Government Relations.

LEADERSHIP CONFERENCE
ON CIVIL RIGHTS,
Washington, DC, March 14, 2005.

OPPOSE UNFAIR BANKRUPTCY ''REFORM''

DEAR REPRESENTATIVE: On behalf of the Leadership Conference on Civil Rights (LCCR), the nation's oldest, largest, and most diverse civil rights coalition, we write to express our strong opposition to the ''Bankruptcy Abuse Prevention and Consumer Protection Act of 2005'' (H.R. 685). We urge you to oppose H.R. 685 because it poses significant concerns for the economic self-sufficiency of all working people in the United States and will cause substantial financial inequities in the process.

The issue of bankruptcy reform is of profound concern to LCCR because, as a general matter, disadvantaged groups in our society disproportionately find themselves in bankruptcy courts as a result of economic discrimination in its many forms. For example:

Divorced women are 300 percent more likely than single or married women to find themselves in bankruptcy court following the cumulative effects of lower wages, reduced access to health insurance, the devastating consequences of divorce, and the disproportionate financial strain of rearing children alone;

Since 1991, the number of older Americans filing for bankruptcy has grown by more than 120 percent. This age group tends to file after being pushed out of jobs and encountering discrimination in hiring, which could result in loss of health insurance, or victimization by credit scams or home improvement frauds that put their homes and security at risk, and;

African American and Hispanic American homeowners are 500 percent more likely than white homeowners to find themselves in bankruptcy court largely due to discrimination in home mortgage lending and housing purchases, and to inequalities in hiring opportunities, wages, and health insurance coverage.

H.R. 685 proposes a number of changes in current bankruptcy law, and supporters claim that enactment is thereby necessary to stop abuse of bankruptcy laws. Yet a majority of those who file are working families who are not abusing the system; instead, they have experienced financial catastrophe. H.R. 685 would make starting over virtually impossible.

In addition, hundreds of thousands of women and children who are owed child support or alimony would be harmed under H.R. 685, as it forces them to compete with credit card issuers and therefore would make it less likely that support payments will be made to those in need. H.R. 685 will also make it much more difficult for businesses to reorganize, thereby forcing them into bankruptcy and eliminating much needed jobs.

H.R. 685 also fails to address one of the key reasons that bankruptcy filings have increased in recent years—a reason that is the willful doing of many of the financial institutions that are lobbying in support of the bill—the aggressive marketing of credit cards to our most financially vulnerable citizens, such as women, students, seniors, and the working poor. According to a recent article in the Washington Post, credit card companies continue to offer credit in record amounts, in an aggressive campaign to saddle more Americans with debts. (Kathleen Day, Tighter Bankruptcy Law Favored, Washington Post, February 11, 2005 at A–05). Yet these same companies have steadfastly resisted even the most modest reforms to help consumers avoid placing themselves in financial jeopardy in the first place, such as requiring clearer disclosure about late payment fees, interest rates, and minimum payments.

LCCR has opposed bankruptcy reform proposals similar to H.R. 685 every year since 1998. Sadly, bankruptcy reform proponents are now pushing legislation that is every bit as flawed as previous legislation and, given today's slow economy, would lead to even more inequitable results. We strongly urge you to reject H.R. 685 because it would radically alter the bankruptcy system in a way that imposes hardships particularly on the most vulnerable among us.

Thank you for your consideration. If you have any questions, please feel free to contact Rob Randhava, LCCR Counsel, at (202) 466–6058.

Sincerely,

WADE HENDERSON,
Executive Director.
NANCY ZIRKIN,
Deputy Director.

WRITTEN STATEMENT OF MARSHALL WOLF, MAY 13, 1998, ON BEHALF OF THE GOVERNING COUNCIL OF THE FAMILY LAW SECTION OF THE AMERICAN BAR ASSOCIATION

* * * earlier version of this legislation concluded that ''child support and credit card obligations could be 'pitted against' one another. . . . Both the domestic creditor and the commercial credit card creditor could pursue the debtor and attempt to collect from post-petition assets, but not in the bankruptcy court.''

Outside of the bankruptcy court is precisely the arena where sophisticated credit card companies have the greatest advantages. While federal bankruptcy court enforces a strict set of priority and payment rules generally seeking to provide equal treatment of creditors with similar legal rights, state law collection is far more akin to ''survival of the fittest.'' Whichever creditor engages in the most aggressive tactic—be it through repeated collection demands and letters, cutting off access to future credit, garnishment of wages or foreclose on assets—is most likely to be repaid. As Marshall Wolf has written on behalf of the Governing Counsel of the Family Law Section of the American Bar Association, ''if credit card debt is added to the current list of items that are now not dischargeable after a bankruptcy of a support payer, the alimony and child support recipient will be forced to compete with the well organized, well financed, and obscenely profitable credit card companies to receive payments from the limited income of the poor guy who just went through a bankruptcy. It is not a fair fight and it is one that women and children who rely on support will lose.''

It is for these reasons that groups concerned with the payment of alimony and child support have expressed their strong opposition to the bill and its predecessors. Professor Karen Gross of New York Law School stated succinctly that ''the proposed legislation does not live up to its billing; it fails to protect women and children adequately.'' Joan Entmacher, on behalf of the National Women's Law Center, testified that ''the child support provisions of the bill fail to ensure that the increased rights the bill would give to commercial creditors do not come at the expense of families owed support.''

Assertions by the legislation's supporters that any disadvantages to women and children under S. 256 are offset by supposedly pro-child support provisions are not persuasive. It is useful to recall the context in which these provisions were added. In the 105th Congress, the bill's proponents adamantly denied that the bill created any problems with regard to alimony and child support. Although the proponents have now changed course, the child support and alimony provisions included do not respond to the provisions in the bill causing the problem—namely the provisions limiting the ability of struggling, single mothers to file for bankruptcy; enhancing the bankruptcy and post-bankruptcy status of credit card debt; and making it more difficult for debtors * * *

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MARCH 11, 2005.

Re The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (H.R. 685/S. 256).

Hon. F. JAMES SENSENBRENNER,

Chairman, Committee on the Judiciary, House of Representatives, Rayburn House Office Building, Washington, DC.

Hon. JOHN CONYERS, Jr.,

Ranking Democratic Member, Committee on the Judiciary, House of Representatives, Rayburn House Office Building, Washington, DC.

We are professors of bankruptcy and commercial law. We are writing with regard to The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (H.R. 685/S. 256)(the ''bill''). We have been following the bankruptcy reform process for the last eight years with keen interest. The 110 undersigned professors come from every region of the country and from all major political parties. We are not members of a partisan, organized group. Our exclusive interest is to seek the enactment of a fair, just and efficient bankruptcy law. Many of us have written before to express our concerns about earlier versions of this legislation, and we write again as yet another version of the bill comes before you. The bill is deeply flawed, and will harm small businesses, the elderly, and families with children. We hope the House of Representatives will not act on it.

It is a stark fact that the bankruptcy filing rate has slightly more than doubled during the last decade, and that last year approximately 1.6 million households filed for bankruptcy. The bill's sponsors view this increase as a product of abuse of bankruptcy by people who would otherwise be in a position to pay their debts. Bankruptcy, the bill's sponsor says, has become a system ''where deadbeats can get out of paying their debt scott-free while honest Americans who play by the rules have to foot the bill.''

We disagree. The bankruptcy filing rate is a symptom. It is not the disease. Some people do abuse the bankruptcy system, but the overwhelming majority of people in bankruptcy are in financial distress as a result of job loss, medical expense, divorce, or a combination of those causes. In our view, the fundamental change over the last ten years has been the way that credit is marketed to consumers. Credit card lenders have become more aggressive in marketing their products, and a large, very profitable, market has emerged in subprime lending. Increased risk is part of the business model. Therefore, it should not come as a surprise that as credit is extended to riskier and riskier borrowers, a greater number default when faced with a financial reversal. Nonetheless, consumer lending remains highly profitable, even under current law.

The ability to file for bankruptcy and to receive a fresh start provides crucial aid to families overwhelmed by financial problems. Through the use of a cumbersome, and procrustean means-test, along with dozens of other measures aimed at ''abuse prevention,'' this bill seeks to shoot a mosquito with a shotgun. By focusing on the opportunistic use of the bankruptcy system by relatively few ''deadbeats'' rather than fashioning a tailored remedy, this bill would cripple an already overburdened system.

1. The Means-test: The principal mechanism aimed at the bankruptcy filing rate is the so called ''meanstest,'' which denies access to Chapter 7 (liquidation) bankruptcy to those debtors who are deemed ''able'' to repay their debts. The bill's sponsor describes the test as a ''flexible . . . test to assess an individual's ability to repay his debts,'' and as a remedy to ''irresponsible consumerism and lax bankruptcy law.'' While the stated concept is fine—people who can repay their debts should do so—the particular mechanism proposed is unnecessary, over-inclusive, painfully inflexible, and costly in both financial terms and judicial resources.

First, the new law is unnecessary. Existing section 707(b) already allows a bankruptcy judge, upon her own motion or the motion of the United States Trustee, to deny a debtor a discharge in Chapter 7 to prevent a ''substantial abuse.'' Courts have not hesitated to deny discharges where Chapter 7 was being used to preserve a well-to-do lifestyle, and the United States Trustee's office has already taken it upon itself to object to discharge when, in its view, the debtor has the ability to repay a substantial portion of his or her debts.

Second, the new means-test is over-inclusive. Because it is based on income and expense standards devised by the Internal Revenue Service to deal with tax cheats, the principal effect of the ''means-test'' would be to replace a judicially supervised, flexible process for ferreting out abusive filings with a cumbersome, inflexible standard that can be used by creditors to impose costs on overburdened families, and deprive them of access to a bankruptcy discharge. Any time middle-income debtors have $100/month more income than the IRS would allow a delinquent taxpayer to keep, they must submit themselves to a 60 month repayment plan. Such a plan would yield a mere $6000 for creditors over five years, less costs of government-sponsored administration.

Third, to give just one example of its inflexibility, the means-test limits private or parochial school tuition expenses to $1500 per year. According to a study by the National Center for Educational Statistics, even in 1993, $1500 would not have covered the average tuition for any category of parochial school (except Seventh Day Adventists and Wisconsin Synod Lutherans). Today it would not come close for any denomination. In order to yield a few dollars for credit card issuers, this bill would force many struggling families to take their children from private or parochial school (often in violation of deeply held religious beliefs) for three to five years in order to confirm a Chapter 13 plan.

Fourth, the power of creditors to raise the ''abuse'' issue will significantly increase the number of means-test hearings. Again, the expense of the hearings will be passed along to the already strapped debtor. This will add to the cost of filing for bankruptcy, whether the filing is abusive or not. It will also swamp bankruptcy courts with lengthy and unnecessary hearings, driving up costs for the taxpayers.

Finally, the bill takes direct aim at attorneys who handle consumer bankruptcy cases by making them liable for errors in the debtor's schedules.

Our problem is not with means-testing per se. Our problem is with the collateral costs that this particular means-test would impose. This is not a typical means test, which acts as a gatekeeper to the system. It would instead burden the system with needless hearings, deprive debtors of access to counsel, and arbitrarily deprive families of needed relief. The human cost of this delay, expense, and exclusion from bankruptcy relief is considerable. As a recent study of medical bankruptcies shows, during the two years before bankruptcy, 45% of the debtors studied had to skip a needed doctor visit. Over 25% had utilities shut off, and nearly 20% went without food. If the costs of bankruptcy are higher, the privations will increase. The vast majority of individuals and families that file for bankruptcy are honest but unfortunate. The main effect of the means-test, along with the other provisions discussed below, will be to deny them access to a bankruptcy discharge.

2. Other Provisions That Will Deny Access to Bankruptcy Court: The means-test is not the only provision in the bill which is designed to limit access to the bankruptcy discharge. There are many others. For example:

Sections 306 and 309 of the bill (working together) would eliminate the ability of Chapter 13 debtors to ''strip down'' liens on personal property, in particular their car, to the value of the collateral. As it is, many Chapter 13 debtors are unable to complete the schedule of payments provided for under their plan. These provisions significantly raise the cash payments that must be made to secured creditors under a Chapter 13 plan. This will have a whipsaw effect on many debtors, who, forced into Chapter 13 by the means-test, will not have the income necessary to confirm a plan under that Chapter. This group of debtors would be deprived of any discharge whatsoever, either in Chapter 7 or Chapter 13. In all cases this will reduce payments to unsecured creditors (a group which, ironically, includes many of the sponsors of this legislation).

Section 106 of the bill would require any individual debtor to receive credit counseling from a credit counseling agency within 180 days prior to filing for bankruptcy. While credit counseling sounds benign, recent Senate hearings with regard to the industry have led Senator Norm Coleman to describe the credit counseling industry as a network of not for profit companies linked to for-profit conglomerates. The industry is plagued with ''consumer complaints about excessive fees, pressure tactics, nonexistent counseling and education, promised results that never come about, ruined credit ratings, poor service, in many cases being left in worse debt than before they initiated their debt management plan.'' Mandatory credit counseling would place vulnerable debtors at the mercy of an industry where, according to a recent Senate investigation, many of the ''counselors'' are seeking to profit from the misfortune of their customers.

Sections 310 and 314 would significantly reduce the ability of debtors to discharge credit card debt and would reduce the scope of the fresh start, for even those debtors who are able to gain access to bankruptcy.

The cumulative effect of these provisions, and many others contained in the bill (along

with the means-test) will be to deprive the victims of disease, job loss, and divorce of much needed relief.

3. The Elusive Bankruptcy Tax?: The bill's proponents argue that it is good for consumers because it will reduce the so-called ''bankruptcy tax.'' In their view, the cost of credit card defaults is passed along to the rest of those who use credit cards, in the form of higher interest rates. As the bill's sponsor dramatically puts it: ''honest Americans who play by the rules have to foot the bill.'' This argument seems logical. However, it is not supported by facts. The average interest rate charged on consumer credit cards has declined considerably over the last dozen years. More importantly, between 1992 and 1995, the spread between the credit card interest rate and the risk free six-month t-bill rate declined significantly, and remained basically constant through 2001. At the same time, the profitability of credit card issuing banks remains at near record levels.

Thus, it would appear that hard evidence of the so-called ''bankruptcy tax'' is difficult to discern. That the unsupported assertion of that phenomenon should drive Congress to restrict access to the bankruptcy system, which effectuates Congress's policies about the balance of rights of both creditors and debtors, is simply wrong.

4. Who Will Bear the Burden of the Means-test? The bankruptcy filing rate is not uniform throughout the country. In Alaska, one in 171.2 households files for bankruptcy. In Utah the filing rate is one in 36.5. The states with the ten highest bankruptcy filing rates are (in descending order): Utah, Tennessee, Georgia, Nevada, Indiana, Alabama, Arkansas, Ohio, Mississippi, and Idaho. The deepest hardship will be felt in the heartland, where the filing rates are highest. The pain will not only be felt by the debtors themselves, but also by the local merchants, whose customers will not have the benefit of the fresh start.

The fastest growing group of bankruptcy filers is older Americans. While individuals over 55 make up only about 15% of the people filing for bankruptcy, they are the fastest growing age group in bankruptcy. More than 50% of those 65 and older are driven to bankruptcy by medical debts they cannot pay. Eighty-five percent of those over 60 cite either medical or job problems as the reason for bankruptcy. Here again, abuse is not the issue. The bankruptcy filing rate reveals holes in the Medicare and Social Security systems, as seniors and aging members of the baby-boom generation declare bankruptcy to deal with prescription drug bills, co-pays, medical supplies, long-term care, and job loss.

Finally, it is crucial to recognize that the filers themselves are not the only ones to suffer from financial distress. They often have dependents. As it turns out, families with children single mothers and fathers, as well as intact families—are more likely to file for bankruptcy than families without them. In 2001, approximately 1 in 123 adults filed for bankruptcy. That same year, 1 in 51 children was a dependent in a family that had filed for bankruptcy. The presence of children in a household increases the likelihood that the head of household will file for bankruptcy by 302%. Limiting access to Chapter 7 will deprive these children (as well as their parents) of a fresh start.

Conclusion: The bill contains a number of salutary provisions, such as the proposed provisions that protect consumers from predatory lending. Our concern is with the provisions addressing ''bankruptcy abuse.'' These provisions are so wrongheaded and flawed that they make the bill as a whole unsupportable. We urge you to either remove these provisions or vote against the bill.

Sincerely,

Richard I. Aaron, S.J. Quinney College of Law, University of Utah.

Peter Alexander, Dean and Professor of Law, Southern Illinois University—Carbondale School of Law.

Thomas B. Allington, Professor of Law, Indiana University School of Law—Indianapolis.

Ralph C. Anzivino, Professor of Law, Marquette University School of Law,

Allan Axelrod, Brennan Professor of Law (emeritus), Rutgers-Newark Law School.

Douglas G. Baird, Professor of Law, University of Chicago Law School.

Patrick B. Bauer, Professor of Law, University of Iowa.

Robert J. Bein, Adjunct Professor of Law, The Dickinson School of Law of the Pennsylvania State University.

Carl S. Bjerre, Associate Professor of Law, University of Oregon School of Law.

Susan Block-Lieb, Professor of Law, Fordham Law School.

Amelia H. Boss, Professor of Law, Temple University School of Law.

Kristin Kalsem Brandser, Associate Professor of Law, University of Cincinnati College of Law.

Jean Braucher, Roger Henderson Professor of Law, University of Arizona.

Ralph Brubaker, Professor of Law and Mildred Van Voorhis Jones, Faculty Scholar, University of Illinois College of Law.

Mark E. Budnitz, Professor of Law, Georgia State University College of Law.

Daniel Bussel, Professor of Law, UCLA School of Law.

Bryan Camp, Professor of Law, Texas Tech University School of Law.

Dennis Cichon, Professor of Law, Thomas Cooley Law School.

Donald F. Clifford, Jr., Aubrey Brooks Professor Emeritus, University of North Carolina School of Law.

Neil B. Cohen, Professor of Law, Brooklyn Law School.

Andrea Coles-Bjerre, Assistant Professor, University of Oregon School of Law.

Corinne Cooper, Professor Emerita of Law, University of Missouri, Kansas City.

Marianne B. Culhane, Professor of Law, Creighton Univ. School of Law.

Susan L. DeJarnatt, Associate Professor of Law, Beasley School of Law of Temple University.

Paulette J. Delk, Associate Professor, Cecil C. Humphreys School of Law, The University of Memphis.

A. Mechele Dickerson, 2004–2005 Cabell Research Professor of Law, William and Mary Law School.

W. David East, Professor of Law, South Texas College of Law.

Thomas L. Eovaldi, Professor of Law Emeritus, Northwestern University School of Law.

Mary Jo Eyster, Associate Professor of Clinical Law, Brooklyn Law School.

Adam Feibelman, Associate Professor, University of North Carolina.

Paul Ferber, Professor of Law, Vermont Law School.

Jeffrey Ferriell, Professor of Law, Capital University School of Law.

Larry Garvin, Associate Professor of Law, Michael E. Moritz College of Law, Ohio State University.

Michael Gerber, Professor of Law, Brooklyn Law School.

S. Elizabeth Gibson, Burton Craige Professor of Law, University of North Carolina at Chapel Hill.

Marjorie L. Girth, Professor of Law, Georgia State University College of Law.

Michael M. Greenfield, Walter D. Coles, Professor of Law, Washington University in St. Louis School of Law.

Karen Gross, Professor of Law, New York Law School.

Steven L. Harris, Professor of Law, Chicago-Kent College of Law.

John Hennigan, Professor of Law, St. John's University School of Law.

Henry E. Hildebrand III, Adjunct Professor, Nashville School of Law.

Margaret Howard, Professor of Law, Washington and Lee University School of Law.

Sarah Jane Hughes, Professor of Law, Indiana University-Bloomington School of Law.

Melissa B. Jacoby, Associate Professor of Law, University of North Carolina at Chapel Hill.

Edward J. Janger, Visiting Professor of Law, University of Pennsylvania Law School and Professor of Law, Brooklyn Law School.

Creola Johnson, Associate Professor of Law, Ohio State Univeristy, Moritz College of Law.

Daniel Keating, Tyrell Williams, Professor of Law, Washington University in Saint Louis School of Law.

Kenneth C. Kettering, Associate Professor, New York Law School.

Jason Kilborn, Assistant Professor, Louisiana State University Law Center.

Don Korobkin, Professor of Law, Rutgers-Camden School of Law.

Robert M. Lawless, Gordon & Silver, Ltd., Professor of Law, University of Nevada, Las Vegas, William S. Boyd School of Law.

Paul Lewis, Professor of Law, The John Marshall Law School.

Jonathan C. Lipson, Visiting Professor of Law, Temple University and Professor of Law, University of Baltimore.

Lynn M. LoPucki, Security Pacific Bank Professor of Law, UCLA Law School.

Ann Lousin, Professor of Law, John Marshall Law School.

Stephen J. Lubben, Associate Professor of Law, Seton Hall University School of Law.

Lois R. Lupica, Professor of Law, University of Maine School of Law.

Ronald J. Mann, Ben H. & Kitty King Powell Chair in Business and Commercial Law, University of Texas School of Law.

Nathalie Martin, Dickason Professor of Law, UNM Mexico School of Law.

James McGrath, Associate Professor of Law, Appalachian School of Law.

Stephen McJohn, Professor of Law, Suffolk University Law School.

Juliet M. Moringiello, Professor of Law, Widener University School of Law.

Jeffrey W. Morris, Samuel A. McCray Chair in Law, University of Dayton School of Law.

James P. Nehf, Professor and Cleon H. Foust Fellow, Indiana University School of Law-Indianapolis, and Visiting Professor, University of Georgia School of Law.

Spencer Neth, Professor of Law, Case Western Reserve University.

Gary Neustadter, Professor of Law, Santa Clara University School of Law.

Scott F. Norberg, Associate Dean for Academic Affairs and Professor of Law, Florida International University College of Law.

Richard Nowka, Professor of Law, Louis D. Brandeis School of Law, University of Louisville.

Rafael I. Pardo, Associate Professor of Law, Tulane Law School.

Dean Pawlowic, Professor of Law, Texas Tech University School of Law.

Christopher Peterson, Assistant Professor of Law, University of Florida Fredric G. Levin College of Law.

Lydie Pierre-Louis, Assistant Professor of Law, Director, Securities Arbitration Clinic, St. John's University School of Law.

John A. E. Pottow, Assistant Professor of Law, University of Michigan Law School.

Lydie Nadia Pierre-Louis, Assistant Professor of Law, St. John's University School of Law.

Thomas E. Plank, Joel A. Katz Distinguished Professor of Law, University of Tennessee College of Law.

Katherine Porter, Visiting Associate Professor of Law, University of Nevada, Las Vegas William S. Boyd School of Law.

Theresa J. Pulley Radwan, Associate Dean of Academics, Stetson University College of Law.

Nancy B. Rapoport, Professor of Law, University of Houston Law Center.

Robert K. Rasmussen, Milton Underwood Chair in Law, FedEx Research Professor of Law, Director, Joe C. Davis Law and Economics Program, Vanderbilt University School of Law.

David Reiss, Assistant Professor, Brooklyn Law School.

Alan N. Resnick, Interim Dean and Benjamin Weintraub, Professor of Law, Hofstra University School of Law.

R. J. Robertson, Jr., Professor of Law, Southern Illinois University School of Law.

Arnold S. Rosenberg, Assistant Professor of Law, Thomas Jefferson School of Law.

Keith A. Rowley, Associate Professor of Law, William S. Boyd School of Law, University of Nevada Las Vegas.

David Wm. Ruskin, Adjunct Professor of Law, Wayne State University Law School.

Michael L. Rustad, Thomas F. Lambert Jr., Professor of Law & Co-Director of Intellectual Property Law Program, Suffolk University Law School.

Milton R. Schroeder, Professor of Law, Arizona State University College of Law.

Steven L. Schwarcz, Stanley A. Star, Professor of Law & Business, Duke University School of Law, Founding Director, Global Capital Markets Center.

Stephen L. Sepinuck, Professor of Law, Gonzaga University School of Law.

Charles Shafer, Professor of Law, University of Baltimore.

Paul Shupack, Professor of Law, Benjamin Cardozo School of Law, Yeshiva University.

Norman I. Silber, Professor of Law, Hofstra University School of Law.

David Skeel, S. Samuel Arsht, Professor of Corporate Law, University of Pennsylvania Law School.

Judy Beckner Sloan, Professor of Law, Southwestern University School of Law.

James C. Smith, Professor of Law, University of Georgia.

Charles Tabb, Associate Dean for Academic Affairs and Alice Curtis Campbell Professor of Law, University of Illinois College of Law.

Walter Taggart, Prof. of Law, Villanova University School of Law.

Bernard Trujillo, Assistant Professor, U. Wisconsin Law School.

Joan Vogel, Professor of Law, Vermont Law School.

Thomas M. Ward, Professor, University of Maine School of Law.

G. Ray Warner, Professor of Law & Director, LL.M. in Bankruptcy, St. John's University School of Law.

Elizabeth Warren, Leo Gottlieb, Professor of Law, Harvard Law School.

Elaine A. Welle, Professor of Law, University of Wyoming College of Law.

Jay Lawrence Westbrook, Benno C. Schmidt, Chair of Business Law, University of Texas School of Law.

Douglas Whaley, Professor Emeritus, Moritz College of Law, Ohio State University.

Michaela M. White, Professor of Law, Creighton University School of Law.

Mary Jo Wiggins, Professor of Law, University of San Diego School of Law.

Lauren E. Willis, Associate Professor of Law, Loyola Law School—Los Angeles.

William J. Woodward, Jr., Professor of Law, Temple University School of Law.

John J. Worley, Professor of Law, South Texas College of Law.

Mary Wynne, Associate Clinical Professor and Director Indian Legal Clinic, Arizona State University.

The SPEAKER pro tempore (Mr. SWEENEY). Is there objection to the request of the gentlewoman from New York?

Mrs. MALONEY. And this is wrong. Where are the family values in this Congress?

The SPEAKER pro tempore. The gentlewoman is not under recognition.

Mrs. MALONEY. Is it just rhetoric or do you really care about children?

Mr. SAM JOHNSON of Texas. I object, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard.

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

PARLIAMENTARY INQUIRIES

Mr. HASTINGS of Florida. Parliamentary inquiry, Mr. Speaker. What was the objection about?

The SPEAKER pro tempore. The objection was regarding the placement of extraneous material in the RECORD.

Mr. HASTINGS of Florida. Mr. Speaker, further parliamentary inquiry, what is the ruling of the Chair?

The SPEAKER pro tempore. The Chair heard objection.

Mr. HASTINGS of Florida. Further parliamentary inquiry, so the gentlewoman from New York's request to put in the RECORD the material?

The SPEAKER pro tempore. The material will not be placed in the RECORD. Objection was heard.

Mr. HASTINGS of Florida. Mr. Speaker, there is objection to a Member's placing in the RECORD, a Member who had made a statement supporting the things that she asked to be submitted, that is being denied?

The SPEAKER pro tempore. That is correct.

Mr. NADLER. Parliamentary inquiry, Mr. Speaker. What is the basis for the objection to a request for insertion into the RECORD of material?

The SPEAKER pro tempore. It takes unanimous consent to place extraneous material in the RECORD. An objection was heard to such a request; therefore, unanimous consent was not obtained.

Mr. NADLER. Mr. Speaker, is it not customary as a normal matter of comity in this House to allow all material requested to be placed in the RECORD?

The SPEAKER pro tempore. Unanimous consent was sought. It was not obtained because the gentleman from Texas was on his feet and objected; therefore, the material does not get inserted in the RECORD.

Mr. SENSENBRENNER. Parliamentary inquiry, Mr. Speaker. Is the material asked to be inserted covered under the General Leave that was requested at the beginning of the debate by the gentleman from Georgia (Mr. GINGREY)?

The SPEAKER pro tempore. The general leave was for extension of remarks and not for insertion of extraneous material.

Mr. NADLER. Mr. Speaker, I appeal the ruling of the Chair.

The SPEAKER pro tempore. There has been no ruling. The Chair merely heard objection.

Ms. WATERS. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentlewoman from California is recognized.

Ms. WATERS. Mr. Speaker, does the rule not state that the objection must be asked for prior to the speaking of the Member? This Member spoke, and the objection was asked for after the party spoke. My understanding is it should have been done ahead of time.

What is the correct rule?

The SPEAKER pro tempore. The gentlewoman from New York made a unanimous consent request, which was heard in total. At the conclusion of that request, the Chair queried for objection, and the gentleman from Texas rose and objected. Therefore, unanimous consent was not obtained.

Ms. WATERS. I am sorry, Mr. Speaker. I think what I observed was she asked unanimous consent. There was no objection. She proceeded to speak. She spoke, and the objection was not timely. It was asked for after she had completed speaking. That is what I saw.

The SPEAKER pro tempore. The gentlewoman from New York was yielded for the purpose of a unanimous consent request. At the conclusion of that consent request, objection was made by the gentleman from Texas.

Ms. WATERS. Mr. Speaker, I submit that that was not a timely objection. It was not timely.

The SPEAKER pro tempore. It was a contemporaneous objection; when the Chair queried for objection, the gentleman was on his feet. Therefore, it was timely.

Ms. WATERS. Mr. Speaker, I do not think so. And I would oppose that, and I would support my colleague, who again would ask that we have a vote on the ruling by the Chair.

The SPEAKER pro tempore. Does the gentlewoman from California appeal the ruling of the Chair that the objection was timely?

Ms. WATERS. Yes, Mr. Speaker. Based on my statement, he is now again appealing the ruling of the Chair based on that it was untimely.

I ask the gentleman from New York (Mr. NADLER) if that is right.

Mr. NADLER. Yes, it is.

The SPEAKER pro tempore. The question is, shall the decision of the Chair stand as the judgment of the House?

MOTION TO TABLE OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Speaker, I move to table the appeal.

The SPEAKER pro tempore. Would the gentleman kindly withhold that motion.

Mr. SENSENBRENNER. Mr. Speaker, I withdraw for now the motion to table.

Mr. NADLER. Mr. Speaker, in light of new information, I withdraw the appeal.

The SPEAKER pro tempore. Does the gentlewoman from California withdraw her appeal?

Ms. WATERS. Yes, Mr. Speaker, I withdraw; and I thank the gentleman on the opposite side of the aisle.

Mr. HASTINGS of Florida. Mr. Speaker, with the Speaker's permission, I ask unanimous consent that the extraneous material offered by the gentlewoman from New York (Mrs. MALONEY) be made a part of the RECORD following her remarks.

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

There was no objection.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, I rise to oppose this legislation.

After 4 years of record deficits and $2 trillion in new debt, one would think that the Republican majority would have a better understanding of what bankruptcy is. They are lucky this law does not apply to their actions in the last 4 years.

Instead, we have a bill that promotes one bankruptcy code for the wealthy and another for the middle class.

Case in point: The bill preserves the ''Millionaires Loophole,'' used by the wealthy to hide up to $1 million from creditors and courts into offshore accounts known as asset protection. Everyone should be subject to the same law and the same standards, not one set of rules for the wealthy and one for middle-class families. If one can afford a high-priced lawyer to set up an asset protection trust, they are a lot better off in bankruptcy than a middle-class family struggling to pay off large hospital bills. More than half of all bankruptcies result from catastrophic medical bills.

Mr. Speaker, rather than deal with the health care crisis or making college affordable, this legislation protects wealthy deadbeats from the same standard imposed upon every middle-class American. We should have one rule, one standard in the law of bankruptcy law that applies to every American regardless of income and regardless of wealth or position.

Mr. GINGREY. Mr. Speaker, I yield myself 1 minute.

In response to the gentleman from Illinois, the reform bill significantly limits two practices that some wealthy filers use to hide assets from bankrupt creditors. Under the current system, in States with unlimited homestead exemptions, debtors can shield the full value of their residencies from creditors. To discourage debtors from relocating to the State to hide assets prior to a bankruptcy filing, the legislation requires a 3-year residency before a debtor can take advantage of the State's full homestead exemption. Currently, that is 91 days.

In addition, the bill adds a specific provision that prevents filers from shielding funds in an asset protection trust when fraud is involved. In fact, these practices will continue unabated unless this legislation is passed.

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield for the purposes of making a privileged motion to the gentlewoman from California (Ms. WOOLSEY).

MOTION TO ADJOURN

Ms. WOOLSEY. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore. The motion is not debatable.

The question is on the motion to adjourn offered by the gentlewoman from California (Ms. WOOLSEY).

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

Ms. WOOLSEY. 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 49, nays 371, not voting 14, as follows:

[Roll No. 103]

YEAS—49

Allen
Baldwin
Berman
Brady (PA)
Butterfield
Capps
Capuano
Clay
Clyburn
Conyers
Cooper
Delahunt
DeLauro
Dingell
Doggett
Evans
Fattah
Filner
Frank (MA)
Green, Al
Hinchey
Holt
Jackson-Lee (TX)
Jones (OH)
Kaptur
Kennedy (RI)
Kilpatrick (MI)
Kucinich
Lee
Markey
McDermott
McGovern
McKinney
Miller, George
Nadler
Oberstar
Olver
Owens
Paul
Payne
Rangel
Sánchez, Linda T.
Schakowsky
Stark
Thompson (MS)
Tierney
Waters
Waxman
Woolsey

NAYS—371

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Andrews
Baca
Bachus
Baird
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berry
Biggert
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Coble
Cole (OK)
Conaway
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeFazio
DeGette
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Farr
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Marchant
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McHenry
McHugh
McIntyre
McKeon
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Ortiz
Osborne
Otter
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Portman
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sanchez, Loretta
Sanders
Saxton
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wasserman Schultz
Watson
Watt
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—14

Berkley
Bilirakis
Buyer
Davis, Tom
Gillmor
Herger
Istook
Manzullo

McCrery	Solis	Towns
Serrano	Thomas	Wamp

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SWEENEY) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1208

Messrs. GOODE, FRANKS of Arizona, SHADEGG, BEAUPREZ, AND SHERMAN, and Ms. GINNY BROWN-WAITE of Florida, Mrs. CAPITO, and Ms. BEAN changed their vote from ''yea'' to ''nay.''

Mr. KUCINICH and Mr. PAYNE changed their vote from ''nay'' to ''yea.''

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

Stated for:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 103 on motion to adjourn I was unavoidably detained. Had I been present, I would have voted "yea."

PROVIDING FOR CONSIDERATION OF S. 256, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005

The SPEAKER pro tempore. Members are advised that the gentleman from Georgia (Mr. GINGREY) has 2½ minutes remaining; and the gentleman from Florida (Mr. HASTINGS) has 4½ minutes remaining.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield to the gentlewoman from California (Ms. WOOLSEY) for a unanimous consent request.

(Ms. WOOLSEY asked and was given permission to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, I rise in opposition to S. 256 because this bill does not protect disabled veterans from creditors.

Mr. HASTINGS of Florida. Mr. Speaker, I yield for a unanimous consent request to my friend, the gentlewoman from Indiana (Ms. CARSON).

(Ms. CARSON asked and was given permission to revise and extend her remarks.)

Ms. CARSON. Mr. Speaker, I rise in opposition to S. 256.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would advise Members that, as indicated most recently by the Chair on March 24, 2004, although a unanimous consent to insert remarks in debate may embody a simple, declarative statement of the Member's attitude toward the pending measure, it is improper for a Member to embellish such a request with other oratory, and it can become an imposition on the time of the Member who has yielded for that purpose.

The Chair will entertain as many requests to insert as may be necessary to accommodate Members, but the Chair also must ask Members to cooperate by confining such remarks to the proper form.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to the gentleman from New Mexico (Mr. UDALL) for a unanimous consent request.

(Mr. UDALL of New Mexico asked and was given permission to revise and extend his remarks.)

Mr. UDALL of New Mexico. Mr. Speaker, I rise in opposition to S.256, because this bill severely hurts a middle-class citizen's ability to get a second chance.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to my good friend, the gentleman from New Jersey (Mr. PAYNE), for a unanimous consent request.

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

Mr. PAYNE. Mr. Speaker, I rise in opposition to S. 256 because the bill does not protect disabled veterans from creditors.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to my good friend, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON), for a unanimous consent request.

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to revise and extend her remarks.)

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise in opposition to S.256 because the bill does nothing to address the epidemic of identity theft or protect its victims.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to the ranking member of the Committee on Rules, the gentlewoman from New York (Ms. SLAUGHTER), for a unanimous consent request.

(Ms. SLAUGHTER asked and was given permission to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, I rise in opposition to S.256 because the bill does nothing to address the problem of identity theft or protect its victims.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to my friend, the gentlewoman from California (Ms. LEE), for a unanimous consent request.

(Ms. LEE asked and was given permission to revise and extend her remarks.)

Ms. LEE. Mr. Speaker, I rise in opposition to S.256 because it is morally bankrupt and puts credit card companies ahead of children.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to the gentleman from California (Mr. STARK) for a unanimous consent request.

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

Mr. STARK. Mr. Speaker, I rise in opposition to S.256 because the bill does not accommodate the 50 million uninsured Americans forced into bankruptcy by health care costs.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to the ranking member of the Committee on Transportation and Infrastructure, my good friend, the gentleman from Minnesota (Mr. OBERSTAR), for a unanimous consent request.

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

Mr. OBERSTAR. Mr. Speaker, I rise in opposition to S. 256.

Mr. HASTINGS of Florida. Mr. Speaker, I yield for a unanimous consent request to my good friend, the gentlewoman from Michigan (Ms. KILPATRICK).

(Ms. KILPATRICK of Michigan asked and was given permission to revise and extend her remarks.)

Ms. KILPATRICK of Michigan. Mr. Speaker, I rise in opposition to S. 256, this bankruptcy bill, because it does nothing to protect the victims of identity theft.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to the gentleman from New York (Mr. OWENS), my good friend, for a unanimous consent request.

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

Mr. OWENS. Mr. Speaker, I rise in opposition to S. 256 because it protects the risks that credit card companies take, while allowing them to swindle citizens.

Mr. Speaker, as a result of the actions of the Republican led Congress, unscrupulous credit card companies will increase their strong, hard sell tactics pressuring more and more individuals and families to purchase more credit. Credit card hucksters can take more risks because they will now enjoy greater protection from the courts. The taxpayer financed courts will become the debt collectors for the credit card swindlers. A federalized system will now protect the predators. Once again the doctrine of laissez-faire has been turned upside down. The marketplace has chosen to cling to the aprons of government. The banking private sector is demanding governmental interference in a situation where the taxpayers prefer not to pay agents for the work of strong enforcers. To serve the interest of consumer justice I urge a "no" vote on S. 256, the Bankruptcy Reform Bill.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to the gentlewoman from San Diego, California (Mrs. DAVIS) for a unanimous consent request.

(Mrs. DAVIS of California asked and was given permission to revise and extend her remarks.)

Mrs. DAVIS of California. Mr. Speaker, I rise in opposition to S. 256 because this bill adds to the burden of military families finding basic financial strength.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to my good friend, the gentlewoman from Ohio (Mrs. JONES), for a unanimous consent request.

(Mrs. JONES of Ohio asked and was given permission to revise and extend her remarks.)

Mrs. JONES of Ohio. Mr. Speaker, I rise in opposition to Senate bill 256 because the bill punishes working families and lets large corporations off the hook.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to the gentleman from Washington (Mr. MCDERMOTT) for a unanimous consent request.

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

Mr. MCDERMOTT. Mr. Speaker, I rise in opposition to S. 256 because this bill puts credit card companies ahead of children in the priorities.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to my good friend, the gentleman from Massachusetts (Mr. OLVER) for a unanimous consent request.

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

Mr. OLVER. Mr. Speaker, I rise in opposition to S. 256.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to the gentleman from Vermont (Mr. SANDERS) for a unanimous consent request.

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

Mr. SANDERS. Mr. Speaker, I rise in opposition to S. 256 because, on a bill of this magnitude, it is undemocratic and an outrage that amendments are not being allowed.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to my good friend, the gentlewoman from Illinois (Ms. SCHAKOWSKY), for a unanimous consent request.

(Ms. SCHAKOWSKY asked and was given permission to revise and extend her remarks.)

Ms. SCHAKOWSKY. Mr. Speaker, I rise in opposition to S. 256 because this bill puts credit card companies ahead of children.

Mr. HASTINGS of Florida. Mr. Speaker, I yield for a unanimous consent request to my good friend, the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to S. 256 because this bill puts credit card companies ahead of children and does not protect disabled veterans from creditors.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to my good friend, the gentlewoman from California (Ms. WATSON), for a unanimous consent request.

(Ms. WATSON asked and was given permission to revise and extend her remarks.)

Ms. WATSON. Mr. Speaker, I rise in opposition to S. 256 because this bill does nothing to address the epidemic of identity theft or protect its victims.

□ 1215

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield for a unanimous consent request to my good friend, the gentlewoman from California (Ms. ROYBAL-ALLARD).

(Ms. ROYBAL-ALLARD asked and was given permission to revise and extend her remarks.)

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in opposition to S. 256 because this bill does nothing to protect disabled veterans or to address the epidemic of identity theft.

Mr. HASTINGS of Florida. Mr. Speaker, I yield for a unanimous consent request to my good friend, the gentlewoman from Connecticut (Ms. DELAURO).

(Ms. DELAURO asked and was given permission to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, I rise in opposition to S. 256 because this bill turns its back on middle-class America, continuing an administration that proceeds to reward the wealthy and tax wages.

Mr. HASTINGS of Florida. Mr. Speaker, I yield for a unanimous consent request to my good friend, the gentlewoman from Florida (Ms. CORRINE BROWN).

(Ms. CORRINE BROWN of Florida asked and was given permission to revise and extend her remarks.)

Ms. CORRINE BROWN of Florida. Mr. Speaker, I rise in opposition to S. 256 because this bill does nothing to protect our heroic Reservists and Guard who are fighting for us every day in war.

Mr. HASTINGS of Florida. Mr. Speaker, I yield for a unanimous consent request to my good friend, the gentleman from Illinois (Mr. DAVIS).

(Mr. DAVIS of Illinois asked and was given permission to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Speaker, I rise in opposition to S. 256. It abuses the people.

Mr. HASTINGS of Florida. Mr. Speaker, I yield for a unanimous consent request to my good friend, the gentlewoman from California (Ms. WATERS).

(Ms. WATERS asked and was given permission to revise and extend her remarks.)

Ms. WATERS. Mr. Speaker, I rise in opposition to S. 256 because the Republicans have sold out to the credit card companies and they are hurting American families.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The Speaker Pro Tempore (Mr. SWEENEY). The Chair would remind Members that their statements should be confined to their unanimous consent requests.

Mr. HASTINGS of Florida. Mr. Speaker, I am privileged to yield for a unanimous consent request to my good friend, the gentleman from Massachusetts (Mr. MEEHAN).

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

Mr. MEEHAN. Mr. Speaker, I rise in opposition to S. 256, which clearly is a payback and payout to the credit card companies.

Mr. HASTINGS of Florida. Mr. Speaker I am pleased to yield for a unanimous consent request to my good friend, the gentleman from North Carolina (Mr. WATT) from the Judiciary Committee, who had the opportunity to participate in some of those hearings, and is the chairman of the Congressional Black Caucus.

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

Mr. WATT. Mr. Speaker, I rise in opposition to the rule and in opposition to the bill; the rule because the rule shuts out all amendments to this bill.

The SPEAKER pro tempore. The gentleman from Florida has 3½ minutes remaining. The gentleman from Georgia has 2½ minutes remaining.

Mr. HASTINGS of Florida. Mr. Speaker, just previous to the unanimous consent request, I was told by way of the gentleman from Georgia (Mr. GINGREY) that we had 4½ minutes.

The SPEAKER pro tempore. The Chair advises the gentleman from Florida that, during the series of unanimous consent requests, some Members embellished with oratory beyond the proper form. One minute was taken from the time for that.

PARLIAMENTARY INQUIRIES

Mr. CONYERS. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman may inquire.

Mr. CONYERS. Mr. Speaker, did I understand you to tell the leader of the Rules Committee managing the bill today that time would be taken from him because of the unanimous consent request?

The SPEAKER pro tempore. The Chair advised on that earlier, and will amplify the earlier statement. As indicated by previous occupants of the Chair on March 24, 2004; November 21, 2003; July 24, 2003; June 26, 2003; June 22, 2002; and March 24, 1995, although a unanimous consent request to insert remarks in debate may embody a simple declarative statement of the Member's attitude toward the pending measure, it is improper for a Member to embellish such a request with other oratory, and it can become an imposition on the time of the Member who has yielded for that purpose.

Mr. CONYERS. Mr. Speaker, may I point out that the floor manager in no way encouraged anyone to speak contrary to the rule that you have just enunciated.

The SPEAKER pro tempore. Members are yielded to for that purpose. They must confine their remarks to the proper form, or time can be subtracted from the individual yielding.

Mr. CONYERS. And in the judgment of the distinguished Speaker, how much time are you proposing to take from the floor manager?

The SPEAKER pro tempore. One minute was charged.

Mr. CONYERS. Is there some precedent for that, sir?

The SPEAKER pro tempore. Yes, as just cited.

Mr. CONYERS. There is?

Mr. GINGREY. Mr. Speaker, in the interest of comity, I ask unanimous consent that the gentleman from Florida be yielded an additional 1 minute.

The SPEAKER pro tempore. From the gentleman from Georgia's time?

Mr. GINGREY. Not from my time, no, Mr. Speaker. That he be allowed an additional 1 minute.

The SPEAKER pro tempore. Beyond the hour available for debate on the rule?

Mr. HASTINGS of Florida. Parliamentary inquiry, Mr. Speaker.

Mr. GINGREY. Mr. Speaker, I request that we grant by unanimous consent 30 seconds of my time to the gentleman from Florida.

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

There was no objection.

Mr. HASTINGS of Florida. Mr. Speaker, I thank my colleague, but I am confused by the Chair's ruling. Parliamentary inquiry.

The SPEAKER pro tempore. The gentleman may inquire.

Mr. HASTINGS of Florida. Mr. Speaker, even though there is only 1 hour debate, a unanimous consent request by a Member that is not objected to is not permitted for extension of time?

The SPEAKER pro tempore. Would the gentleman from Georgia like to modify his request?

Mr. GINGREY. Mr. Speaker, I would like to modify that request to extend time by one minute on both sides.

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

Mr. MURTHA. Objection, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard.

Mr. HASTINGS of Florida. Mr. Speaker, moving right along, I am pleased at this time to yield 3 minutes to the gentleman from California (Mr. SCHIFF), my good friend.

Mr. SCHIFF. Mr. Speaker, on Tuesday night I took an amendment to the Rules Committee asking the committee to permit this body to consider allowing each Member the opportunity to approve that amendment or reject it. The Republican majority on the Rules Committee, however, rejected giving Members that opportunity.

My amendment would have simply provided that if more than one half of the creditor claims against you in bankruptcy are the result of identity theft, you should not be forced out of the protections of chapter 7. It was similar to an amendment offered by Senator NELSON of Florida, but was even narrower than that amendment.

Mr. Speaker, a few years ago, the manager of the identity theft at the FTC commented on how identity theft was becoming rampant in this country, that it wreaks havoc on the credit of the victim and can even force them into bankruptcy. Since then, the problem has grown even worse, and an estimated 27.3 million Americans have fallen victim to identity theft in the last 5 years.

We have all heard of recent breaches of massive databases holding personal information. On Monday, the parent company of the Lexis-Nexis reported that 310,000 people, nearly 10 times more than the original estimate reported last month, may have had their personal information stolen, including names, addresses, Social Security numbers, and driver's license numbers.

And this is not an isolated incident. Identity thieves have gained access to Choicepoint's database and personal information has been stolen and compromised from a major bank, department of motor vehicles, and a number of universities. Added together, these recent incidents in the last several weeks alone have exposed more than 2 million people to possible ID theft.

During the Judiciary Committee consideration of my amendment, I cited two recent examples of identity theft victims who were forced to declare bankruptcy, one young woman defrauded out of $300,000 and another woman who was wiped out financially when her identity was stolen, forcing her to file for bankruptcy right before Christmas.

When I offered the amendment in the Judiciary Committee it provoked quite a debate as well as a disagreement between the Chair of the full committee and the Chair of the subcommittee. The Chair of the subcommittee argued that my amendment would somehow do harm, while the Chair of the full committee argued that the problem with my amendment was that it did nothing at all. The chairman of the subcommittee then argued that the problem was that this issue had never been explored. However, the chairman of the full committee argued that this issue, and every other, had already been explored.

Well, Mr. Speaker and Members, it cannot be both. The chairman of the subcommittee even pondered what would happen if a person had their identity stolen, but then later became wealthy and had the ability to pay off their debt. While admitting that he was stretching, he still urged his colleagues to reject the amendment because it would ''clearly disrupt the whole process of moving forward the bill.'' Thus prompting a question: When is a markup not really a markup? And the answer is, whenever the bankruptcy bill is in committee.

This is now the third session in a row where essentially no amendments have been entertained in committee and no amendments have been allowed here on the floor.

Mr. Speaker, just to conclude, last year the House supported identity theft legislation cracking down on identity thieves. This amendment gives us the chance to protect some of those who have been victimized by identity theft, and I urge an ''aye'' vote.

The SPEAKER pro tempore. The gentleman from Florida (Mr. HASTINGS) has 1 minute remaining. The gentleman from Georgia (Mr. GINGREY) has 2 minutes remaining.

Mr. GINGREY. Mr. Speaker, I have the right to close, and I wanted to reserve the balance of my time for that purpose.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself the remainder of my time. Mr. Speaker, I will be asking Members to vote ''no'' on the previous question. If the previous question is defeated, I will amend this rule so we can vote on the Schiff amendment to help victims of identity theft. It will exempt from the bill's means test those consumers who are victimized by identity theft if it means 51 percent of the creditor claims against them are due to identity theft. This is a very reasonable and much-needed amendment, being debated in the Senate I might add, not on the bankruptcy measure, was offered in the Rules Committee last night, but unfortunately was blocked by the Republican majority by a straight party line vote.

Voting ''no'' on the previous question will not stop the bankruptcy bill from coming to the floor today. S. 256 will still be considered in this House before we leave for the weekend. However, a ''yes'' vote will preclude the House from addressing one of the most serious consumer issues in this country, identity theft. And I ask for a ''no'' on the previous question.

We owe it to our constituents to take action on this serious and escalating problem.

Mr. Speaker, I ask unanimous consent to insert the text of the amendment immediately prior to the vote on the previous question.

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

There was no objection.

Mr. GINGREY. Mr. Speaker, I yield myself the remainder of my time. As we come to the end of the debate on the rule for S. 256, I urge my colleagues to support its passage and the underlying bill.

Mr. Speaker, it is time to pass bankruptcy reform. Today we must fix our bankruptcy laws to prevent irresponsible and unnecessary bankruptcies. Bankruptcy affects all American families. It is estimated that the annual cost is $400 to every family in America, and it is time to reform an outdated and broken system.

Despite the objections of a few Members, I know we have followed a fair process to get to this point. The Rules Committee offered to provide the minority with the ability to submit a substitute amendment. Their substitute amendment could have included any provisions they felt necessary. The Democrats rejected this offer, and they have failed to provide any alternative plan.

It is important to note many of the individual amendments they have discussed here today were considered over the past few years. Regardless of the rhetoric, this legislation has been under consideration and amended a number of times. We are now on the final product.

This year alone, S. 256 passed the House Judiciary Committee where 18

amendments were considered. To the substance of the bill, contrary to the claims of some, this legislation is not lining the pockets of wealthy creditors with the savings of the financially challenged.

Mr. Speaker, when casting their vote, I ask my colleagues to consider those constituents the current law harms. This bill gives support to small businesses and financially responsible families. I ask my colleagues to pass this rule and finally end the 8-year debate on bankruptcy reform.

The material previously referred to by Mr. HASTINGS of Florida is as follows:

PREVIOUS QUESTION FOR H. RES. 211, THE BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005

In the resolution strike ''and (2)'' and insert the following:

''(2) the amendment printed in Sec. 2 of this resolution if offered by Representative Schiff of California or a designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for 60 minutes equally divided and controlled by the proponent and an opponent; and (3)''

SEC. 2.

AMENDMENT TO S. 256, AS REPORTED

Offered by Mr. Schiff of California

Page 19, after line 21, insert the following (and make such technical and conforming changes as may be appropriate):

''(8)(A) No judge, United States trustee (or bankruptcy administrator, if any), trustee, or other party in interest may file a motion under paragraph (2) if the debtor is an identity theft victim.

''(B) For purposes of this paragraph—

''(i) the term 'identity theft' means a fraud committed or attempted using the personally identifiable information of another individual; and

''(ii) the term 'identity theft victim' means a debtor with respect to whom not less than 51 percent of the aggregate value of allowed claims is a result of identity theft using the personally identifiable information of the debtor.''.

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

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on ordering the previous question.

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

Mr. HASTINGS of Florida. 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.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 227, nays 199, not voting 8, as follows:

[Roll No. 104]

YEAS—227

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—199

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—8

Berkley
Cooper
Davis, Tom
Gillmor
LaHood
Payne
Solis
Wamp

□ 1253

Mrs. TAUSCHER, Mr. DAVIS of Florida and Mr. PASTOR changed their vote from ''yea'' to ''nay.''

Mr. BASS and Mr. HOEKSTRA changed their vote from ''nay'' to ''yea.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

Stated against:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 104 on H. Res. 211, ordering the previous question, I was unavoidably detained. Had I been present, I would have voted, "nay".

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the resolution.

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

RECORDED VOTE

Mr. HASTINGS of Florida. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 227, noes 196, not voting 11, as follows:

[Roll No. 105]

AYES—227

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Cramer
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—196

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Costa
Costello
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—11

Berkley
Cooper
Davis, Tom
Feeney
Gillmor
Gordon
Gutknecht
Jenkins
LaHood
Rangel
Solis

□ 1302

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 105, on agreeing to the resolution H. Res. 211, I was unavoidably detained. Had I been present, I would have voted, "no."

PRIVILEGES OF THE HOUSE—RESTORING PUBLIC CONFIDENCE IN ETHICS PROCESS

Ms. PELOSI. Mr. Speaker, pursuant to rule IX, I rise in regard to a question of the privileges of the House, and I offer a privileged resolution that would create a bipartisan task force to return to ethical rules of the House.

The SPEAKER pro tempore (Mr. SIMPSON). The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 213

Whereas, the constitution of the United States authorizes the House of Representatives to ''determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the concurrence of two thirds, expel a Member'';

Whereas, in 1968, in compliance with this authority and to uphold its integrity and ensure that Members act in a manner that reflects credit on the House of Representatives, the Committee on Standards of Official Conduct was established;

Whereas, the ethics procedures in effect during the 108th congress, and in the three preceding Congresses, were enacted in 1997 in a bipartisan manner by an overwhelming vote of the House of Representatives upon the bipartisan recommendation of the ten-member Ethics Reform Task Force, which conducted a thorough and lengthy review of the entire ethics process;

Whereas, in the 109th Congress, for the first time in the history of the House of Representatives, decisions affecting the ethics process have been made on a partisan basis without consulting the Democractic Members of the Committee or of the House;

Whereas, the Chairman of the Committee, and two of his Republican colleagues, were dismissed from the Committee;

Whereas, in a statement to the press, the departing Chairman of the Committee stated ''[t]here is a bad perception out there that there was a purge in the Committee and that people were put in that would protect our side of the aisle better than I did,'' and a replaced Republican Member, also in a statement to the press, referring to his dismissal from the Committee, noted his belief that ''the decision was a direct result of our work in the last session;''

Whereas, the newly appointed chairman of the Committee improperly and unilaterally fired non-partisan Committee staff who assisted in the ethics work in the last session;

Whereas, these actions have subjected the Committee to public ridicule, produced contempt for the ethics process, created the public perception that their purpose was to protect a Member of the House, and weakened the ability of the Committee to adequately obtain information and properly conduct its investigative duties, all of which has brought discredit to the House; now be it

Resolved, that the Speaker shall appoint a bi-partisan task force with equal representation of the majority and minority parties to make recommendations to restore public confidence in the ethics process; and be it further

Resolved, that the task force report its findings and recommendations to the House of Representatives no later than June 1, 2005.

The SPEAKER pro tempore. The resolution does present a question of privilege.

MOTION TO TABLE OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Speaker, I move to table the resolution.

The SPEAKER pro tempore. The question is on the motion to table offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

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

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

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 218, nays 195, not voting 21, as follows:

[Roll No. 106]

YEAS—218

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt

Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayworth
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Otter
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Stearns
Sullivan
Sweeney
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NAYS—195

Abercrombie
Ackerman
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Hefley
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—21

Allen
Berkley
Brown, Corrine
Evans
Gillmor
Gordon
Hayes
Hyde
Johnson, E. B.
LaHood
Lofgren, Zoe
Myrick
Norwood
Olver
Oxley
Rangel
Solis
Souder
Tancredo
Taylor (NC)
Young (AK)

□ 1334

Mr. MORAN of Virginia changed his vote from ''yea'' to ''nay.''

Messrs. PRICE of Georgia, SAXTON, KNOLLENBERG, LEWIS of Kentucky, PETERSON of Pennsylvania, COLE of Oklahoma, RADANOVICH, WOLF, KING of New York, INGLIS of South Carolina, ENGLISH of Pennsylvania and HALL changed their vote from ''nay'' to ''yea.''

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 106, on motion to table the resolution, H. Res. 215, I was unavoidably detained. Had I been present, I would have voted ''nay.''

Ms. ZOE LOFGREN of California. Mr. Speaker, on rollcall No. 106, I had turned off my pager during a committee meeting and neglected to turn it back on. When the vote was called, therefore, I did not learn of it. Had I been present, I would have voted, ''nay.''

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 211, I call up the Senate bill (S. 256) to amend title 11 of the United States Code, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The text of S. 256 is as follows:

S. 256

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

SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Bankruptcy Abuse Prevention and Consumer Protection Act of 2005''.

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

TITLE I—NEEDS-BASED BANKRUPTCY

SEC. 101. CONVERSION.

Section 706(c) of title 11, United States Code, is amended by inserting ''or consents to'' after ''requests''.

SEC. 102. DISMISSAL OR CONVERSION.

(a) IN GENERAL.—Section 707 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following:

''§ 707. Dismissal of a case or conversion to a case under chapter 11 or 13'';

and

(2) in subsection (b)—

(A) by inserting ''(1)'' after ''(b)'';

(B) in paragraph (1), as so redesignated by subparagraph (A) of this paragraph—

(i) in the first sentence—

(I) by striking ''but not at the request or suggestion of'' and inserting ''trustee (or bankruptcy administrator, if any), or'';

(II) by inserting '', or, 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 ''a substantial abuse'' and inserting ''an abuse''; and

(ii) by striking the next to last sentence; and

(C) by adding at the end the following:

''(2)(A)(i) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall presume abuse exists if the debtor's current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv), and multiplied by 60 is not less than the lesser of—

''(I) 25 percent of the debtor's nonpriority unsecured claims in the case, or $6,000, whichever is greater; or

''(II) $10,000.

''(ii)(I) The debtor's monthly expenses shall be the debtor's applicable monthly expense amounts 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 in a joint case, if the spouse is not otherwise a dependent. Such expenses shall include reasonably necessary health insurance, disability insurance, and health savings account expenses for the debtor, the spouse of the debtor, or the dependents of the debtor. 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 identified under section 309 of the Family Violence Prevention and Services Act, or other applicable Federal law. The expenses included in the debtor's monthly expenses described in the preceding sentence shall be kept confidential by the court. In addition, if it is demonstrated that it is reasonable and necessary, the debtor's monthly expenses may also include an additional allowance for food and clothing of up to 5 percent of the food and clothing categories as specified by the National Standards issued by the Internal Revenue Service.

''(II) In addition, the debtor's monthly expenses may include, if applicable, the continuation of actual expenses paid by the debtor that are reasonable and necessary for care and support of an elderly, chronically ill, or disabled household member or member of the debtor's immediate family (including parents, grandparents, siblings, children, and 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 schedules issued 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 less than 18 years of age, not to exceed $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 why such expenses are not already accounted for in the National Standards, Local Standards, or Other Necessary Expenses referred to in subclause (I).

''(V) In addition, the debtor's monthly expenses may include an allowance for housing and utilities, in excess of the allowance specified by the Local Standards for housing and utilities issued by the Internal Revenue Service, based on the actual expenses for home energy costs if the debtor provides documentation of such actual expenses and demonstrates that such actual expenses are reasonable and necessary.

''(iii) The debtor's average monthly payments on account of secured debts shall be calculated as the sum of—

''(I) the total of all amounts scheduled as contractually due to secured creditors in each month of the 60 months following the date of the petition; and

''(II) any additional payments to secured creditors necessary for the debtor, in filing a plan under chapter 13 of this title, to maintain possession of the debtor's primary residence, motor vehicle, or other property necessary for the support of the debtor and the debtor's dependents, that serves as collateral for secured debts;

divided by 60.

''(iv) The debtor's expenses for payment of all priority claims (including priority child support and alimony claims) shall be calculated as the total amount of debts entitled to priority, divided by 60.

''(B)(i) In any proceeding brought under this subsection, the presumption of abuse may only be rebutted by demonstrating special circumstances, such as a serious medical condition or a call or order to active duty in the Armed Forces, to the extent such 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 be required to itemize each additional expense or adjustment of income and to provide—

''(I) documentation for such expense or adjustment to income; and

''(II) a detailed explanation of the special circumstances that make such expenses or adjustment to income necessary and reasonable.

''(iii) The debtor shall attest under oath to the accuracy of any information provided to demonstrate that additional expenses or adjustments to income are required.

''(iv) The presumption of abuse may only be rebutted if the additional expenses or adjustments to income referred to in clause (i) cause the product of the debtor's current monthly income reduced by the amounts determined under clauses (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 show how each such amount is calculated.

''(D) Subparagraphs (A) through (C) shall not apply, and the court may not dismiss or

convert a case based on any form of means testing, if the debtor is a disabled veteran (as defined in section 3741(1) of title 38), and the indebtedness occurred primarily during a period during which he or she was—

''(i) on active duty (as defined in section 101(d)(1) of title 10); or

''(ii) performing a homeland defense activity (as defined in section 901(1) of title 32).

''(3) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter in a case in which the presumption in subparagraph (A)(i) of such paragraph does not arise or is rebutted, the court shall consider—

''(A) whether the debtor filed the petition in bad faith; or

''(B) the totality of the circumstances (including whether the debtor seeks to reject a personal services contract and the financial need for such rejection as sought by the debtor) of the debtor's financial situation demonstrates abuse.

''(4)(A) The court, on its own initiative or on the motion of a party in interest, in accordance with the procedures described in rule 9011 of the Federal Rules of Bankruptcy Procedure, may order the attorney for the debtor to reimburse the trustee for all reasonable costs in prosecuting a motion filed under section 707(b), including reasonable attorneys' fees, if—

''(i) a trustee files a motion for dismissal or conversion under this subsection; and

''(ii) the court—

''(I) grants such motion; and

''(II) finds that the action of the attorney for the debtor in filing a case under this chapter violated rule 9011 of the Federal Rules of Bankruptcy Procedure.

''(B) If the court finds that the attorney for the debtor violated rule 9011 of the Federal Rules of Bankruptcy Procedure, the court, on its own initiative or on the motion of a party in interest, in accordance with such procedures, may order—

''(i) the assessment of an appropriate civil penalty against the attorney for the debtor; and

''(ii) the payment of such civil penalty to the trustee, the United States trustee (or the bankruptcy administrator, if any).

''(C) The signature of an attorney on a petition, pleading, or written motion shall constitute a certification that the attorney has—

''(i) performed a reasonable investigation into the circumstances that gave rise to the petition, pleading, or written motion; and

''(ii) determined that the petition, pleading, or written motion—

''(I) is well grounded in fact; and

''(II) is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and does not constitute an abuse under paragraph (1).

''(D) The signature of an attorney on the petition shall constitute a certification that the attorney has no knowledge after an inquiry that the information in the schedules filed with such petition is incorrect.

''(5)(A) Except as provided in subparagraph (B) and subject to paragraph (6), the court, on its own initiative or on the motion of a party in interest, in accordance with the procedures described in rule 9011 of the Federal Rules of Bankruptcy Procedure, may award a debtor all reasonable costs (including reasonable attorneys' fees) in contesting a motion filed by a party in interest (other than a trustee or United States trustee (or bankruptcy administrator, if any)) under this subsection if—

''(i) the court does not grant the motion; and

''(ii) the court finds that—

''(I) the position of the party that filed the motion violated rule 9011 of the Federal Rules of Bankruptcy Procedure; or

''(II) the attorney (if any) who filed the motion did not comply with the requirements of clauses (i) and (ii) of paragraph (4)(C), and the motion was made solely for the purpose of coercing 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 $1,000 shall not be subject to subparagraph (A)(ii)(I).

''(C) For purposes of this paragraph—

''(i) the term 'small business' means an unincorporated business, partnership, corporation, association, or organization that—

''(I) has fewer than 25 full-time employees as determined on the date on which the motion is filed; and

''(II) 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—

''(I) a parent corporation; and

''(II) any other subsidiary corporation of the parent corporation.

''(6) Only the judge or United States trustee (or bankruptcy administrator, if any) may file a motion under section 707(b), if the current monthly income of the debtor, or in a joint case, the debtor and the debtor's spouse, as of the date of the order for relief, when multiplied by 12, is equal to or less than—

''(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

''(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; 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, plus $525 per month for each individual in excess of 4.

''(7)(A) No judge, United States trustee (or bankruptcy administrator, if any), trustee, or other party in interest may file a motion under paragraph (2) if the current monthly income of the debtor, including a veteran (as that term is defined in section 101 of title 38), and the debtor's spouse combined, as of the date of the order for relief when multiplied by 12, is equal to or less than—

''(i) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

''(ii) 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; or

''(iii) 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, plus $525 per month for each individual in excess of 4.

''(B) In a case that is not a joint case, current monthly income of the debtor's spouse shall not be considered for purposes of subparagraph (A) if—

''(i)(I) the debtor and the debtor's spouse are separated under applicable nonbankruptcy law; or

''(II) the debtor and the debtor's spouse are living separate and apart, other than for the purpose of evading subparagraph (A); and

''(ii) the debtor files a statement under penalty of perjury—

''(I) specifying that the debtor meets the requirement of subclause (I) or (II) of clause (i); and

''(II) disclosing the aggregate, or best estimate of the aggregate, amount of any cash or money payments received from the debtor's spouse attributed to the debtor's current monthly income.''.

(b) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (10) the following:

''(10A) 'current monthly income'—

''(A) means the average monthly income from all sources that the debtor receives (or in a joint case the debtor and the debtor's spouse receive) without regard to whether such income is taxable income, derived during the 6-month period ending on—

''(i) the last day of the calendar month immediately preceding the date of the commencement of the case if the debtor files the schedule of current income required by section 521(a)(1)(B)(ii); or

''(ii) the date on which current income is determined by the court for purposes of this title if the debtor does not file the schedule of current income required by section 521(a)(1)(B)(ii); and

''(B) includes any amount paid by any entity other than the debtor (or in a joint case the debtor and the debtor's spouse), on a regular basis for the household expenses of the debtor or the debtor's dependents (and in a joint case the debtor's spouse if not otherwise a dependent), but excludes benefits received under the Social Security Act, payments to victims of war crimes or crimes against humanity on account of their status as victims of such crimes, and payments to victims of international terrorism (as defined in section 2331 of title 18) or domestic terrorism (as defined in section 2331 of title 18) on account of their status as victims of such terrorism;''.

(c) UNITED STATES TRUSTEE AND BANKRUPTCY ADMINISTRATOR DUTIES.—Section 704 of title 11, United States Code, is amended—

(1) by inserting ''(a)'' before ''The trustee shall—''; and

(2) by adding at the end the following:

''(b)(1) With respect to a debtor who is an individual in a case under this chapter—

''(A) the United States trustee (or the bankruptcy administrator, if any) shall review all materials filed by the debtor and, not later than 10 days after the date of the first meeting of creditors, file with the court a statement as to whether the debtor's case would be presumed to be an abuse under section 707(b); and

''(B) not later than 5 days after receiving a statement under subparagraph (A), the court shall provide a copy of the statement to all creditors.

''(2) The United States trustee (or bankruptcy administrator, if any) shall, not later than 30 days after the date of filing a statement under paragraph (1), either file a motion to dismiss or convert under section 707(b) or file a statement setting forth the reasons the United States trustee (or the bankruptcy administrator, if any) does not consider such a motion to be appropriate, if the United States trustee (or the bankruptcy administrator, if any) determines that the debtor's case should be presumed to be an abuse under section 707(b) and the product of the debtor's current monthly income, multiplied by 12 is not less than—

''(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner; or

''(B) 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.''.

(d) NOTICE.—Section 342 of title 11, United States Code, is amended by adding at the end the following:

''(d) In a case under chapter 7 of this title in which the debtor is an individual and in which the presumption of abuse arises under section 707(b), the clerk shall give written notice to all creditors not later than 10 days after the date of the filing of the petition that the presumption of abuse has arisen.''.

(e) NONLIMITATION OF INFORMATION.—Nothing in this title shall limit the ability of a creditor to provide information to a judge (except for information communicated ex parte, unless otherwise permitted by applicable law), United States trustee (or bankruptcy administrator, if any), or trustee.

(f) DISMISSAL FOR CERTAIN CRIMES.—Section 707 of title 11, United States Code, is amended by adding at the end the following:

''(c)(1) In this subsection—

''(A) the term 'crime of violence' has the meaning given such term in section 16 of title 18; and

''(B) the term 'drug trafficking crime' has the meaning given such term in section 924(c)(2) of title 18.

''(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 when it is in the best interest of the victim dismiss a voluntary case filed under this chapter by a debtor who is an individual if such individual was convicted of such crime.

''(3) The court may not dismiss a case under paragraph (2) if the debtor establishes by a preponderance of the evidence that the filing of a case under this chapter is necessary to 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 inserting a semicolon; and

(3) by inserting after paragraph (6) the following:

''(7) the action of the debtor in filing the petition was in good faith;''.

(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 for a dependent child made in accordance with applicable nonbankruptcy law to the extent reasonably necessary to be expended for such child) less amounts reasonably necessary to be expended—

''(A)(i) 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

''(ii) for charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3) to a qualified religious or charitable entity or organization (as defined in section 548(d)(4)) in an amount not to exceed 15 percent of gross income of the debtor for the year in which the contributions are made; and

''(B) if the debtor is engaged in business, for the payment of expenditures necessary for the continuation, preservation, and operation of such business.

''(3) Amounts reasonably necessary to be expended under paragraph (2) shall be determined in accordance with subparagraphs (A) and (B) of section 707(b)(2), if the debtor has current monthly income, when multiplied by 12, greater than—

''(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

''(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; 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, plus $525 per month for each individual in excess of 4.''.

(i) SPECIAL ALLOWANCE FOR HEALTH INSURANCE.—Section 1329(a) of title 11, United States Code, is amended—

(1) in paragraph (2) by striking ''or'' at the end;

(2) in paragraph (3) by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(4) reduce amounts to be paid under the plan by the actual amount expended by the debtor to purchase health insurance for the debtor (and for any dependent of the debtor if such dependent does not otherwise have health insurance coverage) if the debtor documents the cost of such insurance and demonstrates that—

''(A) such expenses are reasonable and necessary;

''(B)(i) 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, who has similar income, expenses, age, and health status, and who lives in the same geographical location with the same number of dependents who do not otherwise have health insurance coverage; and

''(C) the amount is not otherwise allowed for purposes of determining disposable income under section 1325(b) of this title;

and upon request of any party in interest, files proof that a health insurance policy was purchased.''.

(j) ADJUSTMENT OF DOLLAR AMOUNTS.—Section 104(b) of title 11, United States Code, is amended by striking ''and 523(a)(2)(C)'' each place it appears and inserting ''523(a)(2)(C), 707(b), and 1325(b)(3)''.

(k) DEFINITION OF 'MEDIAN FAMILY INCOME'.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (39) the following:

''(39A) 'median family income' means for any year—

''(A) the median family income both calculated and reported by the Bureau of the Census in the then most recent year; and

''(B) if not so calculated and reported in the then current year, adjusted annually after such most recent year until the next year in which median family income is both calculated and reported by the Bureau of the Census, to reflect the percentage change in the Consumer Price Index for All Urban Consumers during the period of years occurring after such most recent year and before such current year;''.

(k) CLERICAL AMENDMENT.—The table of sections for chapter 7 of title 11, United States Code, is amended by striking the item relating to section 707 and inserting the following:

''707. Dismissal of a case or conversion to a case under chapter 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 their use under section 707(b) of title 11, United States Code.

(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 Senate and the Committee on the Judiciary of the House of Representatives containing the findings of the Director 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; and

(B) the impact that the application of such standards has had on debtors and on the bankruptcy courts.

(2) 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:

''(b) 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; and

''(2) statements specifying that—

''(A) a person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury in connection with a case under this title shall be subject to fine, imprisonment, or both; and

''(B) all information supplied by a debtor in connection with a case under this title is subject to examination by the Attorney General.''.

SEC. 105. DEBTOR FINANCIAL MANAGEMENT TRAINING TEST PROGRAM.

(a) DEVELOPMENT OF FINANCIAL MANAGEMENT AND TRAINING CURRICULUM AND MATERIALS.—The Director of the Executive Office for United States Trustees (in this section referred to as the ''Director'') shall consult with a wide range of individuals who are experts in the field of debtor education, including trustees who serve in cases under chapter 13 of title 11, United States Code, and who operate financial management education programs for debtors, and shall develop a financial management training curriculum and materials that can be used to educate debtors who are individuals on how to better manage their finances.

(b) TEST.—

(1) SELECTION OF DISTRICTS.—The Director shall select 6 judicial districts of the United States in which to test the effectiveness of the financial management training curriculum and materials developed under subsection (a).

(2) USE.—For an 18-month period beginning not later than 270 days after the date of the enactment of this Act, such curriculum and materials shall be, for the 6 judicial districts selected under paragraph (1), used as the instructional course concerning personal financial management for purposes of section 111 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 3 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, for referral to the appropriate committees of the Congress, 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 unless such individual has, during the 180-day period preceding the date of filing of the petition by such individual, received from an approved nonprofit budget and credit counseling agency described in section 111(a) an individual or group briefing (including a briefing conducted by telephone or on the Internet) that outlined the opportunities for available credit counseling and assisted such individual in performing a related budget analysis.

''(2)(A) Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the United States trustee (or the bankruptcy administrator, if any) determines that the approved nonprofit budget and credit counseling agencies for such district are not reasonably able to provide adequate services to the additional individuals who would otherwise seek credit counseling from such agencies by reason of the requirements of paragraph (1).

''(B) The United States trustee (or the bankruptcy administrator, if any) who makes a determination described in subparagraph (A) shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually thereafter. Notwithstanding the preceding sentence, a nonprofit budget and credit counseling agency may be disapproved by the United States trustee (or the bankruptcy administrator, if any) at any time.

''(3)(A) Subject to subparagraph (B), the requirements of paragraph (1) shall not apply with respect to a debtor who submits to the court a certification that—

''(i) describes exigent circumstances that merit a waiver of the requirements of paragraph (1);

''(ii) states that the debtor requested credit counseling services from an approved nonprofit budget and credit counseling agency, but was unable to obtain the services referred to in paragraph (1) during the 5-day period beginning on the date on which the debtor made that request; and

''(iii) is satisfactory to the court.

''(B) With respect to a debtor, an exemption under subparagraph (A) shall cease to apply to that debtor on the date on which the debtor meets the requirements of paragraph (1), but in no case may the exemption apply to that debtor after the date that is 30 days after the debtor files a petition, except that the court, for cause, may order an additional 15 days.

''(4) The requirements of paragraph (1) shall not apply with respect to a debtor whom the court determines, after notice and hearing, is unable to complete those requirements because of incapacity, disability, or active military duty in a military combat zone. For the purposes of this paragraph, incapacity means that the debtor is impaired by reason of mental illness or mental deficiency so that he is incapable of realizing and making rational decisions with respect to his financial responsibilities; and ''disability'' means that the debtor is so physically impaired as to be unable, after reasonable effort, to participate in an in person, telephone, or Internet briefing required under paragraph (1).''.

(b) CHAPTER 7 DISCHARGE.—Section 727(a) of title 11, United States Code, is amended—

(1) in paragraph (9), by striking ''or'' at the end;

(2) in paragraph (10), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(11) after filing the petition, the debtor failed to complete an instructional course concerning personal financial management described in section 111, except that this paragraph shall not apply with respect to a debtor who is a person described in section 109(h)(4) or who resides in a district for which the United States trustee (or the bankruptcy administrator, if any) determines that the approved instructional courses are not adequate to service the additional individuals who would otherwise be required to complete such instructional courses under this section (The United States trustee (or the bankruptcy administrator, if any) who makes a determination described in this paragraph shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually thereafter.).''.

(c) CHAPTER 13 DISCHARGE.—Section 1328 of title 11, United States Code, is amended by adding at the end the following:

''(g)(1) The court shall not grant a discharge under this section to a debtor unless after filing a petition the debtor has completed an instructional course concerning personal financial management described in section 111.

''(2) Paragraph (1) shall not apply with respect to a debtor who is a person described in section 109(h)(4) or who resides in a district for which the United States trustee (or the bankruptcy administrator, if any) determines that the approved instructional courses are not adequate to service the additional individuals who would otherwise be required to complete such instructional course by reason of the requirements of paragraph (1).

''(3) The United States trustee (or the bankruptcy administrator, if any) who makes a determination described in paragraph (2) shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually thereafter.''.

(d) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, is amended—

(1) by inserting ''(a)'' before ''The debtor shall—''; and

(2) by adding at the end the following:

''(b) In addition to the requirements under subsection (a), a debtor who is an individual shall file with the court—

''(1) a certificate from the approved nonprofit budget and credit counseling agency that provided the debtor services under section 109(h) describing the services provided to the debtor; and

''(2) a copy of the debt repayment plan, if any, developed under section 109(h) through the approved nonprofit budget and credit counseling agency referred to in paragraph (1).''.

(e) GENERAL PROVISIONS.—

(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

''§ 111. Nonprofit budget and credit counseling agencies; financial management instructional courses

''(a) The clerk shall maintain a publicly available list of—

''(1) nonprofit budget and credit counseling agencies that provide 1 or more services described in section 109(h) currently approved by the United States trustee (or the bankruptcy administrator, if any); and

''(2) instructional courses concerning personal financial management currently approved by the United States trustee (or the bankruptcy administrator, if any), as applicable.

''(b) The United States trustee (or bankruptcy administrator, if any) shall only approve a nonprofit budget and credit counseling agency or an instructional course concerning personal financial management as follows:

''(1) The United States trustee (or bankruptcy administrator, if any) shall have thoroughly reviewed the qualifications of the nonprofit budget and credit counseling agency or of the provider of the instructional course under the standards set forth in this section, and the services or instructional courses that will be offered by such agency or such provider, and may require such agency or such provider that has sought approval to provide information with respect to such review.

''(2) The United States trustee (or bankruptcy administrator, if any) shall have determined that such agency or such instructional course fully satisfies the applicable standards set forth in this section.

''(3) If a nonprofit budget and credit counseling agency or instructional course did not appear on the approved list for the district under subsection (a) immediately before approval under this section, approval under this subsection of such agency or such instructional course shall be for a probationary period not to exceed 6 months.

''(4) At the conclusion of the applicable probationary period under paragraph (3), the United States trustee (or bankruptcy administrator, if any) may only approve for an additional 1-year period, and for successive 1-year periods thereafter, an agency or instructional course that has demonstrated during the probationary or applicable subsequent period of approval that such agency or instructional course—

''(A) has met the standards set forth under this section during such period; and

''(B) can satisfy such standards in the future.

''(5) Not later than 30 days after any final decision under paragraph (4), an interested person may seek judicial review of such decision in the appropriate district court of the United States.

''(c)(1) The United States trustee (or the bankruptcy administrator, if any) shall only approve a nonprofit budget and credit counseling agency that demonstrates that it will provide qualified counselors, maintain adequate provision for safekeeping and payment of client funds, provide adequate counseling with respect to client credit problems, and deal responsibly and effectively with other matters relating to the quality, effectiveness, and financial security of the services it provides.

''(2) To be approved by the United States trustee (or the bankruptcy administrator, if any), a nonprofit budget and credit counseling agency shall, at a minimum—

''(A) have a board of directors the majority of which—

''(i) are not employed by such agency; and

''(ii) will not directly or indirectly benefit financially from the outcome of the counseling services provided by such agency;

''(B) if a fee is charged for counseling services, charge a reasonable fee, and provide services without regard to ability to pay the fee;

''(C) provide for safekeeping and payment of client funds, including an annual audit of the trust accounts and appropriate employee bonding;

''(D) provide full disclosures to a client, including funding sources, counselor qualifications, possible impact on credit reports, and any costs of such program that will be paid by such client and how such costs will be paid;

''(E) provide adequate counseling with respect to a client's credit problems that includes an analysis of such client's current financial condition, factors that caused such financial condition, and how such client can develop a plan to respond to the problems without incurring negative amortization of debt;

''(F) provide trained counselors who receive no commissions or bonuses based on the outcome of the counseling services provided by such agency, and who have adequate experience, and have been adequately trained to provide counseling services to individuals in financial difficulty, including the matters described in subparagraph (E);

''(G) demonstrate adequate experience and background in providing credit counseling; and

''(H) have adequate financial resources to provide continuing support services for budgeting plans over the life of any repayment plan.

''(d) The United States trustee (or the bankruptcy administrator, if any) 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 instruction and services;

''(B) learning materials and teaching methodologies designed to assist debtors in understanding personal financial management and that are consistent with stated objectives directly related to the goals of such instructional course;

''(C) adequate facilities situated in reasonably convenient locations at which such instructional course is offered, except that such facilities may include the provision of such instructional course by telephone or through the Internet, if such instructional course is effective;

''(D) the preparation and retention of reasonable records (which shall include the debtor's bankruptcy case number) to permit evaluation of the effectiveness of such instructional course, including any evaluation of satisfaction of instructional course requirements for each debtor attending such instructional course, which shall be available for inspection and evaluation by the Executive Office for United States Trustees, the United States trustee (or the bankruptcy administrator, if any), or the chief bankruptcy judge for the district in which such instructional course is offered; and

''(E) if a fee is charged for the instructional course, charge a reasonable fee, and provide services without regard to ability to pay the fee.

''(2) for any 1-year period if the provider thereof has demonstrated that the course meets the standards of paragraph (1) and, in addition—

''(A) has been effective in assisting a substantial number of debtors to understand personal financial management; and

''(B) is otherwise likely to increase substantially the debtor's understanding of personal financial management.

''(e) The district court may, at any time, investigate the qualifications of a nonprofit budget and credit counseling agency referred to in subsection (a), and request production of documents to ensure the integrity and effectiveness of such agency. The district court may, at any time, remove from the approved list under subsection (a) a nonprofit budget and credit counseling agency upon finding such agency does not meet the qualifications of subsection (b).

''(f) The United States trustee (or the bankruptcy administrator, if any) shall notify the clerk that a nonprofit budget and credit counseling agency or an instructional course is no longer approved, in which case the clerk shall remove it from the list maintained under subsection (a).

''(g)(1) No nonprofit budget and credit counseling agency may provide to a credit reporting agency information concerning whether a debtor has received or sought instruction concerning personal financial management from such agency.

''(2) A nonprofit budget and credit counseling agency that willfully or negligently fails to comply with any requirement under this title with respect to a debtor shall be liable for damages in an amount equal to the sum of—

''(A) any actual damages sustained by the debtor as a result of the violation; and

''(B) any court costs or reasonable attorneys' fees (as determined by the court) incurred in an action to recover those damages.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 11, United States Code, is amended by adding at the end the following:

''111. Nonprofit budget and credit counseling agencies; financial management instructional courses.''.

(f) LIMITATION.—Section 362 of title 11, United States Code, is amended by adding at the end the following:

''(i) If a case commenced under chapter 7, 11, or 13 is dismissed due to the creation of a debt repayment plan, for purposes of subsection (c)(3), any subsequent case commenced by the debtor under any such chapter shall not be presumed to be filed not in good faith.

''(j) On request of a party in interest, the court shall issue an order under subsection (c) confirming that the automatic stay has been terminated.''.

SEC. 107. SCHEDULES OF REASONABLE AND NECESSARY EXPENSES.

For purposes of section 707(b) of title 11, United States Code, as amended by this Act, the Director of the Executive Office for United States Trustees shall, not later than 180 days after the date of enactment of this Act, issue schedules of reasonable and necessary administrative expenses of administering a chapter 13 plan for each judicial district of the United States.

TITLE II—ENHANCED CONSUMER PROTECTION

Subtitle A—Penalties for Abusive Creditor Practices

SEC. 201. PROMOTION OF ALTERNATIVE DISPUTE RESOLUTION.

(a) REDUCTION OF CLAIM.—Section 502 of title 11, United States Code, is amended by adding at the end the following:

''(k)(1) The court, on the motion of the debtor and after a hearing, may reduce a claim filed under this section based in whole on an unsecured consumer debt by not more than 20 percent of the claim, if—

''(A) the claim was filed by a creditor who unreasonably refused to negotiate a reasonable alternative repayment schedule proposed on behalf of the debtor by an approved nonprofit budget and credit counseling agency described in section 111;

''(B) the offer of the debtor under subparagraph (A)—

''(i) was made at least 60 days before the date of the filing of the petition; and

''(ii) provided for payment of at least 60 percent of the amount of the debt over a period not to exceed the repayment period of the loan, or a reasonable extension thereof; and

''(C) no part of the debt under the alternative repayment schedule is nondischargeable.

''(2) The debtor shall have the burden of proving, by clear and convincing evidence, that—

''(A) the creditor unreasonably refused to consider the debtor's proposal; and

''(B) the proposed alternative repayment schedule was made prior to expiration of the 60-day period specified in paragraph (1)(B)(i).''.

(b) LIMITATION ON AVOIDABILITY.—Section 547 of title 11, United States Code, is amended by adding at the end the following:

''(h) The trustee may not avoid a transfer if such transfer was made as a part of an alternative repayment schedule between the debtor and any creditor of the debtor created by an approved nonprofit budget and credit counseling agency.''.

SEC. 202. EFFECT OF DISCHARGE.

Section 524 of title 11, United States Code, is amended by adding at the end the following:

''(i) The willful failure of a creditor to credit payments received under a plan confirmed under this title, unless the order confirming the plan is revoked, the plan is in default, or the creditor has not received payments required to be made under the plan in the manner required by the plan (including crediting the amounts required under the plan), shall constitute a violation of an injunction under subsection (a)(2) if the act of the creditor to collect and failure to credit payments in the manner required by the plan caused material injury to the debtor.

''(j) Subsection (a)(2) does not operate as an injunction against an act by a creditor that is the holder of a secured claim, if—

''(1) such creditor retains a security interest in real property that is the principal residence of the debtor;

''(2) such act is in the ordinary course of business between the creditor and the debtor; and

''(3) 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.''.

SEC. 203. DISCOURAGING ABUSE OF REAFFIRMATION AGREEMENT PRACTICES.

(a) IN GENERAL.—Section 524 of title 11, United States Code, as amended section 202, is amended—

(1) in subsection (c), by striking paragraph (2) and inserting the following:

''(2) the debtor received the disclosures described in subsection (k) at or before the time at which the debtor signed the agreement;''; and

(2) by adding at the end the following:

''(k)(1) The disclosures required under subsection (c)(2) shall consist of the disclosure statement described in paragraph (3), completed as required in that paragraph, together with the agreement specified in subsection (c), statement, declaration, motion and order described, respectively, in paragraphs (4) through (8), and shall be the only disclosures required in connection with entering into such agreement.

''(2) Disclosures made under paragraph (1) shall be made clearly and conspicuously and in writing. The terms 'Amount Reaffirmed'

and 'Annual Percentage Rate' shall be disclosed more conspicuously than other terms, 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 (2) through (8), except that the terms 'Amount Reaffirmed' and 'Annual Percentage Rate' must be used where indicated.

''(3) 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 of debt that the debtor agrees to reaffirm by entering into an agreement of the kind specified in subsection (c), and

''(ii) the total of any fees and costs accrued as of the date of the disclosure statement, related to such total amount.

''(D) In conjunction with the disclosure of the 'Amount Reaffirmed', the statements—

''(i) 'The amount of debt you have agreed to reaffirm'; and

''(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 an extension of credit under an open end credit plan, as the terms 'credit' and 'open end credit plan' are defined in section 103 of the Truth in Lending Act, then—

''(I) the annual percentage rate determined under paragraphs (5) and (6) of section 127(b) of the Truth in Lending Act, as applicable, as disclosed to the debtor in the most recent periodic statement prior to entering into an agreement of the kind specified in subsection (c) or, if no such periodic statement has been given to 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, then

''(II) the simple interest rate applicable to the amount reaffirmed as of the date the disclosure statement is given to the debtor, or if different simple interest rates apply to different balances, the simple interest rate applicable to each such balance, identifying the amount of each such balance included in the amount reaffirmed, 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); or

''(ii) if, at the time the petition is filed, the debt is an extension of credit other than under an open end credit plan, as the terms 'credit' and 'open end credit plan' are defined in section 103 of the Truth in Lending Act, then—

''(I) the annual percentage rate under section 128(a)(4) of the Truth in Lending Act, as disclosed to the debtor in the most recent disclosure statement given to the debtor prior to the entering into an agreement of the kind specified in subsection (c) with respect to the debt, or, if no such disclosure statement was given to 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, then

''(II) the simple interest rate applicable to the amount reaffirmed as of the date the disclosure statement is given to the debtor, or if different simple interest rates apply to different balances, the simple interest rate applicable to each such balance, identifying the amount of such balance included in the amount reaffirmed, or

''(III) if the entity making the disclosure elects, to disclose the annual percentage rate under (I) and the simple interest rate under (II).

''(F) If the underlying debt transaction was disclosed as a variable rate transaction on the most recent disclosure given under the Truth in Lending Act, by stating 'The interest rate on your loan may be a variable interest rate which changes from time to time, so that the annual percentage rate disclosed here may be higher or lower.'.

''(G) If the debt is secured by a security interest which has not been waived in whole or in part or determined to be void by a final order of the court at the time of the disclosure, by disclosing that a security interest or lien in goods or property is asserted over some or all of the debts the debtor is reaffirming and listing the items and their original purchase price that are subject to the asserted security interest, or if not a purchase-money security interest then listing by items or types and the original amount of the loan.

''(H) At the election of the creditor, a statement of the repayment schedule using 1 or a combination of the following—

''(i) by making the statement: 'Your first payment in the amount of $_____ is due on _____ but the future payment amount may be different. Consult your reaffirmation agreement or credit agreement, as applicable.', and stating the amount of the first payment and the due date of that payment in the places provided;

''(ii) by making the statement: 'Your payment schedule will be:', and describing the repayment schedule with the number, amount, and due dates or period of payments scheduled to repay the debts reaffirmed to the extent then known by the disclosing party; or

''(iii) by describing the debtor's repayment obligations with reasonable specificity to the extent then known by the disclosing party.

''(I) The following statement: 'Note: When this disclosure refers to what a creditor ''may'' do, it does not use the word ''may'' to give the creditor specific permission. The word ''may'' is used to tell you what might occur if the law permits the creditor to take the action. If you have questions about your reaffirming a debt or what the law requires, consult with the attorney who helped you negotiate this agreement reaffirming a debt. If you don't have an attorney helping you, the judge will explain the effect of your reaffirming a debt when the hearing on the reaffirmation agreement is held.'.

''(J)(i) The following additional statements:

'' 'Reaffirming a debt is a serious financial decision. The law requires you to take certain steps to make sure the decision is in your best interest. If these steps are not completed, the reaffirmation agreement is not effective, even though you have signed it.

'' '1. Read the disclosures in this Part A carefully. Consider the decision to reaffirm carefully. Then, if you want to reaffirm, sign the reaffirmation agreement in Part B (or you may use a separate agreement you and your creditor agree on).

'' '2. Complete and sign Part D and be sure you can afford to make the payments you are agreeing to make and have received a copy of the disclosure statement and a completed and signed reaffirmation agreement.

'' '3. If you were represented by an attorney during the negotiation of your reaffirmation agreement, the attorney must have signed the certification in Part C.

'' '4. If you were not represented by an attorney during the negotiation of your reaffirmation agreement, you must have completed and signed Part E.

'' '5. The original of this disclosure must be filed with the court by you or your creditor. If a separate reaffirmation agreement (other than the one in Part B) has been signed, it must be attached.

'' '6. If you were represented by an attorney during the negotiation of your reaffirmation agreement, your reaffirmation agreement becomes effective upon filing with the court unless the reaffirmation is presumed to be an undue hardship as explained in Part D.

'' '7. If you were not represented by an attorney during the negotiation of your reaffirmation agreement, it will not be effective unless the court approves it. The court will notify you of the hearing on your reaffirmation agreement. You must attend this hearing in bankruptcy court where the judge will review your reaffirmation agreement. The bankruptcy court must approve your reaffirmation agreement as consistent with your best interests, except that no court approval is required if your reaffirmation agreement is for a consumer debt secured by a mortgage, deed of trust, security deed, or other lien on your real property, like your home.

'' 'Your right to rescind (cancel) your reaffirmation agreement. You may rescind (cancel) your reaffirmation agreement at any time before the bankruptcy court enters a discharge order, or before the expiration of the 60-day period that begins on the date your reaffirmation agreement is filed with the court, whichever occurs later. To rescind (cancel) your reaffirmation agreement, you must notify the creditor that your reaffirmation agreement is rescinded (or canceled).

'' 'What are your obligations if you reaffirm the debt? A reaffirmed debt remains your personal legal obligation. It is not discharged in your bankruptcy case. That means that if you default on your reaffirmed debt after your bankruptcy case is over, your creditor may be able to take your property or your wages. Otherwise, your obligations will be determined by the reaffirmation agreement which may have changed the terms of the original agreement. For example, if you are reaffirming an open end credit agreement, the creditor may be permitted by that agreement or applicable law to change the terms of that agreement in the future under certain conditions.

'' 'Are you required to enter into a reaffirmation agreement by any law? No, you are not required to reaffirm a debt by any law. Only agree to reaffirm a debt if it is in your best interest. Be sure you can afford the payments you agree to make.

'' 'What if your creditor has a security interest or lien? Your bankruptcy discharge does not eliminate any lien on your property. A ''lien'' is often referred to as a security interest, deed of trust, mortgage or security deed. Even if you do not reaffirm and your personal liability on the debt is discharged, because of the lien your creditor may still have the right to take the security property if you do not pay the debt or default on it. If the lien is on an item of personal property that is exempt under your State's law or that the trustee has abandoned, you may be able to redeem the item rather than reaffirm the debt. To redeem, you make a single payment to the creditor

equal to the current value of the security property, as agreed by the parties or determined by the court.'.

''(ii) In the case of a reaffirmation under subsection (m)(2), numbered paragraph 6 in the disclosures required by clause (i) of this subparagraph shall read as follows:

'' '6. If you were represented by an attorney during the negotiation of your reaffirmation agreement, your reaffirmation agreement becomes effective upon filing with the court.'.

''(4) The form of such agreement required under this paragraph shall consist of the following:

'' 'Part B: Reaffirmation Agreement. I (we) agree to reaffirm the debts arising under the credit agreement described below.

'' 'Brief description of credit agreement:

'' 'Description of any changes to the credit agreement made as part of this reaffirmation agreement:

'' 'Signature: Date:

'' 'Borrower:

'' 'Co-borrower, if also reaffirming these debts:

'' 'Accepted by creditor:

'' 'Date of creditor acceptance:'.

''(5) The declaration shall consist of the following:

''(A) The following certification:

'' 'Part C: Certification by Debtor's Attorney (If Any).

'' 'I hereby certify that (1) this agreement represents a fully informed and voluntary agreement by the debtor; (2) this agreement does not impose an undue hardship on the debtor or any dependent of the debtor; and (3) I have fully advised the debtor of the legal effect and consequences of this agreement and any default under this agreement.

'' 'Signature of Debtor's Attorney: Date:'.

''(B) If a presumption of undue hardship has been established with respect to such agreement, such certification shall state that in the opinion of the attorney, the debtor is able to make the payment.

''(C) In the case of a reaffirmation agreement under subsection (m)(2), subparagraph (B) is not applicable.

''(6)(A) The statement in support of such agreement, which the debtor shall sign and date prior to filing with the court, shall consist of the following:

'' 'Part D: Debtor's Statement in Support of Reaffirmation Agreement.

'' '1. I believe this reaffirmation agreement will not impose an undue hardship on my dependents or me. I can afford to make the payments on the reaffirmed debt because my monthly income (take home pay plus any other income received) is $_____, and my actual current monthly expenses including monthly payments on post-bankruptcy debt and other reaffirmation agreements total $_____, leaving $_____ to make the required payments on this reaffirmed debt. I understand that if my income less my monthly expenses does not leave enough to make the payments, this reaffirmation agreement is presumed to be an undue hardship on me and must be reviewed by the court. However, this presumption may be overcome if I explain to the satisfaction of the court how I can afford to make the payments here: _____.

'' '2. I received a copy of the Reaffirmation Disclosure Statement in Part A and a completed and signed reaffirmation agreement.'.

''(B) Where the debtor is represented by an attorney and is reaffirming a debt owed to a creditor defined in section 19(b)(1)(A)(iv) of the Federal Reserve Act, the statement of support of the reaffirmation agreement, which the debtor shall sign and date prior to filing with the court, shall consist of the following:

'' 'I believe this reaffirmation agreement is in my financial interest. I can afford to make the payments on the reaffirmed debt. I received a copy of the Reaffirmation Disclosure Statement in Part A and a completed and signed reaffirmation agreement.'.

''(7) The motion that may be used if approval of such agreement by the court is required in order for it to be effective, shall be signed and dated by the movant and shall consist of the following:

'' 'Part E: Motion for Court Approval (To be completed only if the debtor is not represented by an attorney.). I (we), the debtor(s), affirm the following to be true and correct:

'' 'I am not represented by an attorney in connection with this reaffirmation agreement.

'' 'I believe this reaffirmation agreement is in my best interest based on the income and expenses I have disclosed in my Statement in Support of this reaffirmation agreement, and because (provide any additional relevant reasons the court should consider):

'' 'Therefore, I ask the court for an order approving this reaffirmation agreement.'.

''(8) The court order, which may be used to approve such agreement, shall consist of the following:

'' 'Court Order: The court grants the debtor's motion and approves the reaffirmation agreement described above.'.

''(l) Notwithstanding any other provision of this title the following shall apply:

''(1) A creditor may accept payments from a debtor before and after the filing of an agreement of the kind specified in subsection (c) with the court.

''(2) A creditor may accept payments from a debtor under such agreement that 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.

''(m)(1) Until 60 days after an agreement of the kind specified in subsection (c) is filed with the court (or such additional period as the court, after notice and a hearing and for cause, orders before the expiration of such period), it shall be presumed that such agreement is an undue hardship on the debtor if the debtor's monthly income less the debtor's monthly expenses as shown on the debtor's completed and signed statement in support of such agreement required under subsection (k)(6)(A) is less than the scheduled payments on the reaffirmed debt. This presumption shall be reviewed by the court. The presumption may be rebutted in writing by the debtor if the statement includes an explanation that identifies additional sources of funds to make the payments as agreed upon under the terms of such agreement. If the presumption is not rebutted to the satisfaction of the court, the court may disapprove such agreement. No agreement shall be disapproved without notice and a hearing to the debtor and creditor, and such hearing shall be concluded before the entry of the debtor's discharge.

''(2) This subsection does not apply to reaffirmation agreements where the creditor is a credit union, as defined in section 19(b)(1)(A)(iv) of the Federal Reserve Act.''.

(b) LAW ENFORCEMENT.—

(1) IN GENERAL.—Chapter 9 of title 18, United States Code, is amended by adding at the end the following:

''§ 158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent statements in bankruptcy schedules

''(a) IN GENERAL.—The Attorney General of the United States shall designate the individuals described in subsection (b) to have primary responsibility in carrying out enforcement activities in addressing violations of section 152 or 157 relating to abusive reaffirmations of debt. In addition to addressing the violations referred to in the preceding sentence, the individuals described under subsection (b) shall address violations of section 152 or 157 relating to materially fraudulent statements in bankruptcy schedules that are intentionally false or intentionally misleading.

''(b) UNITED STATES ATTORNEYS AND AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION.—The individuals referred to in subsection (a) are—

''(1) the United States attorney for each judicial district of the United States; and

''(2) an agent of the Federal Bureau of Investigation for each field office of the Federal Bureau of Investigation.

''(c) BANKRUPTCY INVESTIGATIONS.—Each United States attorney 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 3057.

''(d) BANKRUPTCY PROCEDURES.—The bankruptcy courts shall establish procedures for referring any case that may contain a materially fraudulent statement in a bankruptcy schedule to the individuals designated under this section.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 9 of title 18, United States Code, is amended by adding at the end the following:

''158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent statements in bankruptcy schedules.''.

SEC. 204. PRESERVATION OF CLAIMS AND DEFENSES UPON SALE OF PREDATORY LOANS.

Section 363 of title 11, United States Code, is amended—

(1) by redesignating subsection (o) as subsection (p), and

(2) by inserting after subsection (n) the following:

''(o) Notwithstanding subsection (f), if a person purchases any interest in a consumer credit transaction that is subject to the Truth in Lending Act or any interest in a consumer credit contract (as defined in section 433.1 of title 16 of the Code of Federal Regulations (January 1, 2004), as amended from time to time), and if such interest is purchased through a sale under this section, then such person shall remain subject to all claims and defenses that are related to such consumer credit transaction or such consumer credit contract, to the same extent as such person would be subject to such claims and defenses of the consumer had such interest been purchased at a sale not under this section.''.

SEC. 205. GAO STUDY AND REPORT ON REAFFIRMATION AGREEMENT PROCESS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the reaffirmation agreement process that occurs under title 11 of the United States Code, to determine the overall treatment of consumers within the context of such process, and shall include in such study consideration of—

(1) the policies and activities of creditors with respect to reaffirmation agreements; and

(2) whether consumers are fully, fairly, and consistently informed of their rights pursuant to such title.

(b) REPORT TO THE CONGRESS.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General

shall submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report on the results of the study conducted under subsection (a), together with recommendations for legislation (if any) to address any abusive or coercive tactics found in connection with the reaffirmation agreement process that occurs under title 11 of the United States Code.

Subtitle B—Priority Child Support

SEC. 211. DEFINITION OF DOMESTIC SUPPORT OBLIGATION.

Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (12A); and

(2) by inserting after paragraph (14) the following:

''(14A) 'domestic support obligation' means a debt that accrues before, on, or after the date of the order for relief in a case under this title, including interest that accrues on that debt as provided under applicable nonbankruptcy law notwithstanding any other provision of this title, that is—

''(A) owed to or recoverable by—

''(i) a spouse, former spouse, or child of the debtor or such child's parent, legal guardian, or responsible relative; or

''(ii) a governmental unit;

''(B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child of the debtor or such child's parent, without regard to whether such debt is expressly so designated;

''(C) established or subject to establishment before, on, or after the date of the order for relief in a case under this title, by reason of applicable provisions of—

''(i) a separation agreement, divorce decree, or property settlement agreement;

''(ii) an order of a court of record; or

''(iii) a determination made in accordance with applicable nonbankruptcy law by a governmental unit; and

''(D) not assigned to a nongovernmental entity, unless that obligation is assigned voluntarily by the spouse, former spouse, child of the debtor, or such child's parent, legal guardian, or responsible relative for the purpose of collecting the debt;''.

SEC. 212. PRIORITIES FOR CLAIMS FOR DOMESTIC SUPPORT OBLIGATIONS.

Section 507(a) of title 11, United States Code, is amended—

(1) by striking paragraph (7);

(2) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively;

(3) in paragraph (2), as so redesignated, by striking ''First'' and inserting ''Second'';

(4) in paragraph (3), as so redesignated, by striking ''Second'' and inserting ''Third'';

(5) in paragraph (4), as so redesignated—

(A) by striking ''Third'' and inserting ''Fourth''; and

(B) by striking the semicolon at the end and inserting a period;

(6) in paragraph (5), as so redesignated, by striking ''Fourth'' and inserting ''Fifth'';

(7) in paragraph (6), as so redesignated, by striking ''Fifth'' and inserting ''Sixth'';

(8) in paragraph (7), as so redesignated, by striking ''Sixth'' and inserting ''Seventh''; and

(9) by inserting before paragraph (2), as so redesignated, the following:

''(1) First:

''(A) Allowed unsecured claims for domestic support obligations that, as of the date of the filing of the petition in a case under this title, are owed to or recoverable by a spouse, former spouse, or child of the debtor, or such child's parent, legal guardian, or responsible relative, without regard to whether the claim is filed by such person or is filed by a governmental unit on behalf of such person, on the condition that funds received under this paragraph by a governmental unit under this title after the date of the filing of the petition shall be applied and distributed in accordance with applicable nonbankruptcy law.

''(B) Subject to claims under subparagraph (A), allowed unsecured claims for domestic support obligations that, as of the date of the filing of the petition, are assigned by a spouse, former spouse, child of the debtor, or such child's parent, legal guardian, or responsible relative to a governmental unit (unless such obligation is assigned voluntarily by the spouse, former spouse, child, parent, legal guardian, or responsible relative of the child for the purpose of collecting the debt) or are owed directly to or recoverable by a governmental unit under applicable nonbankruptcy law, on the condition that funds received under this paragraph by a governmental unit under this title after the date of the filing of the petition be applied and distributed in accordance with applicable nonbankruptcy law.

''(C) If a trustee is appointed or elected under section 701, 702, 703, 1104, 1202, or 1302, the administrative expenses of the trustee allowed under paragraphs (1)(A), (2), and (6) of section 503(b) shall be paid before payment of claims under subparagraphs (A) and (B), to the extent that the trustee administers assets that are otherwise available for the payment of such claims.''.

SEC. 213. REQUIREMENTS TO OBTAIN CONFIRMATION AND DISCHARGE IN CASES INVOLVING DOMESTIC SUPPORT OBLIGATIONS.

Title 11, United States Code, is amended—

(1) in section 1129(a), by adding at the end the following:

''(14) If the debtor is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, the debtor has paid all amounts payable under such order or such statute for such obligation that first become payable after the date of the filing of the petition.'';

(2) in section 1208(c)—

(A) in paragraph (8), by striking ''or'' at the end;

(B) in paragraph (9), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(10) failure of the debtor to pay any domestic support obligation that first becomes payable after the date of the filing of the petition.'';

(3) in section 1222(a)—

(A) in paragraph (2), by striking ''and'' at the end;

(B) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.'';

(4) in section 1222(b)—

(A) in paragraph (10), by striking ''and'' at the end;

(B) by redesignating paragraph (11) as paragraph (12); and

(C) 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 1228(a), 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'';

(5) in section 1225(a)—

(A) in paragraph (5), by striking ''and'' at the end;

(B) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(7) the debtor has paid all amounts that are required to be paid under a domestic support obligation and that first become payable after the date of the filing of the petition if the debtor is required by a judicial or administrative order, or by statute, to pay such domestic support obligation.'';

(6) in section 1228(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 by statute, to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or such 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 by the plan) have been paid'' after ''completion by the debtor of all payments under the plan'';

(7) in section 1307(c)—

(A) in paragraph (9), by striking ''or'' at the end;

(B) in paragraph (10), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(11) failure of the debtor to pay any domestic support obligation that first becomes payable after the date of the filing of the petition.'';

(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 redesignating 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 1328(a), 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'';

(10) in section 1325(a), as amended by section 102, by inserting after paragraph (7) the following:

''(8) the debtor has paid all amounts that are required to be paid under a domestic support obligation and that first become payable after the date of the filing of the petition if the debtor is required by a judicial or administrative order, or by statute, to pay such domestic support obligation; and'';

(11) 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 by statute, to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or such 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 by the plan) have been paid'' after ''completion by the debtor of all payments under the plan''.

SEC. 214. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC SUPPORT OBLIGATION PROCEEDINGS.

Section 362(b) of title 11, United States Code, is amended by striking paragraph (2) and inserting the following:

''(2) under subsection (a)—

''(A) of the commencement or continuation of a civil action or proceeding—

''(i) for the establishment of paternity;

''(ii) for the establishment or modification of an order for domestic support obligations;

''(iii) concerning child custody or visitation;

''(iv) for the dissolution of a marriage, except to the extent that such proceeding seeks to determine the division of property that is property of the estate; or

''(v) regarding domestic violence;

''(B) of the collection of a domestic support obligation from property that is not property of the estate;

''(C) with respect to the withholding of income that is property of the estate or property of the debtor for payment of a domestic support obligation under a judicial or administrative order or a statute;

''(D) of the withholding, suspension, or restriction of a driver's license, a professional or occupational license, or a recreational license, under State law, as specified in section 466(a)(16) of the Social Security Act;

''(E) of the reporting of overdue support owed by a parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act;

''(F) of the interception of a tax refund, as specified in sections 464 and 466(a)(3) of the Social Security Act or under an analogous State law; or

''(G) of the enforcement of a medical obligation, as specified under title IV of the Social Security Act;''.

SEC. 215. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

Section 523 of title 11, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraph (5) and inserting the following:

''(5) for a domestic support obligation;''; and

(B) by striking paragraph (18);

(2) in subsection (c), by striking ''(6), or (15)'' each place it appears and inserting ''or (6)''; and

(3) in paragraph (15), as added by Public Law 103–394 (108 Stat. 4133)—

(A) by inserting ''to a spouse, former spouse, or child of the debtor and'' before ''not of the kind'';

(B) by inserting ''or'' after ''court of record,''; and

(C) by striking ''unless—'' and all that follows through the end of the paragraph and inserting a semicolon.

SEC. 216. CONTINUED LIABILITY OF PROPERTY.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (c), by striking paragraph (1) and inserting the following:

''(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) (in which case, notwithstanding any provision of applicable nonbankruptcy law to the contrary, such property shall be liable for a debt of a kind specified in section 523(a)(5));'';

(2) in subsection (f)(1)(A), by striking the dash and all that follows through the end of the subparagraph and inserting ''of a kind that is specified in section 523(a)(5); or''; and

(3) in subsection (g)(2), by striking ''subsection (f)(2)'' and inserting ''subsection (f)(1)(B)''.

SEC. 217. PROTECTION OF DOMESTIC SUPPORT CLAIMS AGAINST PREFERENTIAL TRANSFER MOTIONS.

Section 547(c)(7) of title 11, United States Code, is amended to read as follows:

''(7) to the extent such transfer was a bona fide payment of a debt for a domestic support obligation;''.

SEC. 218. DISPOSABLE INCOME DEFINED.

Section 1225(b)(2)(A) of title 11, United States Code, is amended by inserting ''or for a domestic support obligation that first becomes payable after the date of the filing of the petition'' after ''dependent of the debtor''.

SEC. 219. COLLECTION OF CHILD SUPPORT.

(a) DUTIES OF TRUSTEE UNDER CHAPTER 7.—Section 704 of title 11, United States Code, as amended by section 102, is amended—

(1) in subsection (a)—

(A) in paragraph (8), by striking ''and'' at the end;

(B) in paragraph (9), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

''(10) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c); and''; and

(2) by adding at the end the following:

''(c)(1) In a case described in subsection (a)(10) to which subsection (a)(10) applies, the trustee shall—

''(A)(i) provide written notice to the holder of the claim described in subsection (a)(10) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title;

''(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency; and

''(iii) include in the notice provided under clause (i) an explanation of the rights of such holder to payment of such claim under this chapter;

''(B)(i) provide written notice to such State child support enforcement agency of such claim; and

''(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

''(C) at such time as the debtor is granted a discharge under section 727, provide written notice to such holder and to such State child support enforcement agency of—

''(i) the granting of the discharge;

''(ii) the last recent known address of the debtor;

''(iii) the last recent known name and address of the debtor's employer; and

''(iv) the name of each creditor that holds a claim that—

''(I) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

''(II) was reaffirmed by the debtor under section 524(c).

''(2)(A) The holder of a claim described in subsection (a)(10) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making such disclosure.''.

(b) DUTIES OF TRUSTEE UNDER CHAPTER 11.—Section 1106 of title 11, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking ''and'' at the end;

(B) in paragraph (7), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(8) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c).''; and

(2) by adding at the end the following:

''(c)(1) In a case described in subsection (a)(8) to which subsection (a)(8) applies, the trustee shall—

''(A)(i) provide written notice to the holder of the claim described in subsection (a)(8) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

''(ii) include in the notice required by clause (i) the address and telephone number of such State child support enforcement agency;

''(B)(i) provide written notice to such State child support enforcement agency of such claim; and

''(ii) include in the notice required by clause (i) the name, address, and telephone number of such holder; and

''(C) at such time as the debtor is granted a discharge under section 1141, provide written notice to such holder and to such State child support enforcement agency of—

''(i) the granting of the discharge;

''(ii) the last recent known address of the debtor;

''(iii) the last recent known name and address of the debtor's employer; and

''(iv) the name of each creditor that holds a claim that—

''(I) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

''(II) was reaffirmed by the debtor under section 524(c).

''(2)(A) The holder of a claim described in subsection (a)(8) or the State child enforcement support agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making such disclosure.''.

(c) DUTIES OF TRUSTEE UNDER CHAPTER 12.—Section 1202 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking ''and'' at the end;

(B) in paragraph (5), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(6) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c).''; and

(2) by adding at the end the following:

''(c)(1) In a case described in subsection (b)(6) to which subsection (b)(6) applies, the trustee shall—

''(A)(i) provide written notice to the holder of the claim described in subsection (b)(6) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

''(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency;

''(B)(i) provide written notice to such State child support enforcement agency of such claim; and

''(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

''(C) at such time as the debtor is granted a discharge under section 1228, provide written notice to such holder and to such State child support enforcement agency of—

''(i) the granting of the discharge;

''(ii) the last recent known address of the debtor;

''(iii) the last recent known name and address of the debtor's employer; and

''(iv) the name of each creditor that holds a claim that—

''(I) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

''(II) was reaffirmed by the debtor under section 524(c).

''(2)(A) The holder of a claim described in subsection (b)(6) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making that disclosure.''.

(d) DUTIES OF TRUSTEE UNDER CHAPTER 13.—Section 1302 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking ''and'' at the end;

(B) in paragraph (5), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(6) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (d).''; and

(2) by adding at the end the following:

''(d)(1) In a case described in subsection (b)(6) to which subsection (b)(6) applies, the trustee shall—

''(A)(i) provide written notice to the holder of the claim described in subsection (b)(6) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

''(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency;

''(B)(i) provide written notice to such State child support enforcement agency of such claim; and

''(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

''(C) at such time as the debtor is granted a discharge under section 1328, provide written notice to such holder and to such State child support enforcement agency of—

''(i) the granting of the discharge;

''(ii) the last recent known address of the debtor;

''(iii) the last recent known name and address of the debtor's employer; and

''(iv) the name of each creditor that holds a claim that—

''(I) is not discharged under paragraph (2) or (4) of section 523(a); or

''(II) was reaffirmed by the debtor under section 524(c).

''(2)(A) The holder of a claim described in subsection (b)(6) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making that disclosure.''.

SEC. 220. NONDISCHARGEABILITY OF CERTAIN EDUCATIONAL BENEFITS AND LOANS.

Section 523(a) of title 11, United States Code, is amended by striking paragraph (8) and inserting the following:

''(8) unless excepting such debt from discharge under this paragraph would impose an undue hardship on the debtor and the debtor's dependents, for—

''(A)(i) an educational benefit overpayment or loan made, insured, or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution; or

''(ii) an obligation to repay funds received as an educational benefit, scholarship, or stipend; or

''(B) any other educational loan that is a qualified education loan, as defined in section 221(d)(1) of the Internal Revenue Code of 1986, incurred by a debtor who is an individual;''.

Subtitle C—Other Consumer Protections

SEC. 221. AMENDMENTS TO DISCOURAGE ABUSIVE BANKRUPTCY FILINGS.

Section 110 of title 11, United States Code, is amended—

(1) in subsection (a)(1), by striking ''or an employee of an attorney'' and inserting ''for the debtor or an employee 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 bankruptcy petition preparer shall be required to—

''(A) sign the document for filing; and

''(B) print on the document the name and address of that officer, principal, responsible person, or partner.''; and

(B) by striking paragraph (2) and inserting the following:

''(2)(A) Before preparing any document for filing or accepting any fees from a debtor, the bankruptcy petition preparer shall provide to the debtor a written notice which shall be on an official form prescribed by the Judicial Conference of the United States in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure.

''(B) The notice under subparagraph (A)—

''(i) shall inform the debtor in simple language that a bankruptcy petition preparer is not an attorney and may not practice law or give legal advice;

''(ii) may contain a description of examples of legal advice that a bankruptcy petition preparer is not authorized to give, in addition to any advice that the preparer may not give by reason of subsection (e)(2); and

''(iii) shall—

''(I) be signed by the debtor and, under penalty of perjury, by the bankruptcy petition preparer; and

''(II) be filed with any document for filing.'';

(3) in subsection (c)—

(A) in paragraph (2)—

(i) by striking ''(2) For purposes'' and inserting ''(2)(A) Subject to subparagraph (B), for purposes''; and

(ii) by adding at the end the following:

''(B) If a bankruptcy petition preparer is not an individual, the identifying number of the bankruptcy petition preparer shall be the Social Security account number of the officer, principal, responsible person, or partner of the bankruptcy petition preparer.''; and

(B) by striking paragraph (3);

(4) in subsection (d)—

(A) by striking ''(d)(1)'' and inserting ''(d)''; and

(B) by striking paragraph (2);

(5) in subsection (e)—

(A) by striking paragraph (2); and

(B) by adding at the end the following:

''(2)(A) A bankruptcy petition preparer may not offer a potential bankruptcy debtor any legal advice, including any legal advice described in subparagraph (B).

''(B) The legal advice referred to in subparagraph (A) includes advising the debtor—

''(i) whether—

''(I) to file a petition under this title; or

''(II) commencing a case under chapter 7, 11, 12, or 13 is appropriate;

''(ii) whether the debtor's debts will be discharged in a case under this title;

''(iii) whether the debtor will be able to retain the debtor's home, car, or other property after commencing a case under this title;

''(iv) concerning—

''(I) the tax consequences of a case brought under this title; or

''(II) the dischargeability of tax claims;

''(v) whether the debtor may or should promise to repay debts to a creditor or enter into a reaffirmation agreement with a creditor to reaffirm a debt;

''(vi) concerning how to characterize the nature of the debtor's interests in property or the debtor's debts; or

''(vii) concerning bankruptcy procedures and rights.'';

(6) in subsection (f)—

(A) by striking ''(f)(1)'' and inserting ''(f)''; and

(B) by striking paragraph (2);

(7) in subsection (g)—

(A) by striking ''(g)(1)'' and inserting ''(g)''; and

(B) by striking paragraph (2);

(8) in subsection (h)—

(A) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively;

(B) by inserting before paragraph (2), as so redesignated, the following:

''(1) The Supreme Court may promulgate rules under section 2075 of title 28, or the Judicial Conference of the United States may prescribe guidelines, for setting a maximum allowable fee chargeable by a bankruptcy petition preparer. A bankruptcy petition preparer shall notify the debtor of any such maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor.'';

(C) in paragraph (2), as so redesignated—

(i) by striking ''Within 10 days after the date of the filing of a petition, a bankruptcy petition preparer shall file a'' and inserting ''A'';

(ii) by inserting ''by the bankruptcy petition preparer shall be filed together with the petition,'' after ''perjury''; and

(iii) by adding at the end the following: ''If rules or guidelines setting a maximum fee for services have been promulgated or prescribed under paragraph (1), the declaration under this paragraph shall include a certification that the bankruptcy petition preparer complied with the notification requirement under paragraph (1).'';

(D) by striking paragraph (3), as so redesignated, and inserting the following:

''(3)(A) The court shall disallow and order the immediate turnover to the bankruptcy trustee any fee referred to in paragraph (2) found to be in excess of the value of any services—

''(i) rendered by the bankruptcy petition preparer during the 12-month period immediately preceding the date of the filing of the petition; or

''(ii) found to be in violation of any rule or guideline promulgated or prescribed under paragraph (1).

''(B) All fees charged by a bankruptcy petition preparer may be forfeited in any case in which the bankruptcy petition preparer fails to comply with this subsection or subsection (b), (c), (d), (e), (f), or (g).

''(C) An individual may exempt any funds recovered under this paragraph under section 522(b).''; and

(E) in paragraph (4), as so redesignated, by striking ''or the United States trustee'' and inserting ''the United States trustee (or the bankruptcy administrator, if any) or the court, on the initiative of the court,'';

(9) in subsection (i)(1), by striking the matter preceding subparagraph (A) and inserting the following:

''(i)(1) If a bankruptcy petition preparer violates this section or commits any act that the court finds to be fraudulent, unfair, or deceptive, on the motion of the debtor, trustee, United States trustee (or the bankruptcy administrator, if any), and after notice and a hearing, the court shall order the bankruptcy petition preparer to pay to the debtor—'';

(10) in subsection (j)—

(A) in paragraph (2)—

(i) in subparagraph (A)(i)(I), by striking ''a violation of which subjects a person to criminal penalty'';

(ii) in subparagraph (B)—

(I) by striking ''or has not paid a penalty'' and inserting ''has not paid a penalty''; and

(II) by inserting ''or failed to disgorge all fees ordered by the court'' after ''a penalty imposed under this section,'';

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

(C) by inserting after paragraph (2) the following:

''(3) The court, as part of its contempt power, may enjoin a bankruptcy petition preparer that has failed to comply with a previous order issued under this section. The injunction under this paragraph may be issued on the motion of the court, the trustee, or the United States trustee (or the bankruptcy administrator, if any).''; and

(11) by adding at the end the following:

''(l)(1) A bankruptcy petition preparer who fails to comply with any provision of subsection (b), (c), (d), (e), (f), (g), or (h) may be fined not more than $500 for each such failure.

''(2) The court shall triple the amount of a fine assessed under paragraph (1) in any case in which the court finds that a bankruptcy petition preparer—

''(A) advised the debtor to exclude assets or income that should have been included on applicable schedules;

''(B) advised the debtor to use a false Social Security account number;

''(C) failed to inform the debtor that the debtor was filing for relief under this title; or

''(D) prepared a document for filing in a manner that failed to disclose the identity of the bankruptcy petition preparer.

''(3) A debtor, trustee, creditor, or United States trustee (or the bankruptcy administrator, if any) may file a motion for an order imposing a fine on the bankruptcy petition preparer for any violation of this section.

''(4)(A) Fines imposed under this subsection in judicial districts served by United States trustees shall be paid to the United States trustee, who shall deposit an amount equal to such fines in a special account of the United States Trustee System Fund referred to in section 586(e)(2) of title 28. Amounts deposited under this subparagraph shall be available to fund the enforcement of this section on a national basis.

''(B) Fines imposed under this subsection in judicial districts served by bankruptcy administrators shall be deposited as offsetting receipts to the fund established under section 1931 of title 28, and shall remain available until expended to reimburse any appropriation for the amount paid out of such appropriation for expenses of the operation and maintenance of the courts of the United States.''.

SEC. 222. SENSE OF CONGRESS.

It is the sense of Congress that States should develop curricula relating to the subject of personal finance, designed for use in elementary and secondary schools.

SEC. 223. ADDITIONAL AMENDMENTS TO TITLE 11, UNITED STATES CODE.

Section 507(a) of title 11, United States Code, as amended by section 212, is amended by inserting after paragraph (9) the following:

''(10) Tenth, allowed claims for death or personal injury resulting from the operation of a motor vehicle or vessel if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug, or another substance.''.

SEC. 224. PROTECTION OF RETIREMENT SAVINGS IN BANKRUPTCY.

(a) IN GENERAL.—Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking ''and'' at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting ''; and'';

(iii) by adding at the end the following:

''(C) retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.''; and

(iv) by striking ''(2)(A) any property'' and inserting:

''(3) Property listed in this paragraph is—

''(A) any property'';

(B) by striking paragraph (1) and inserting:

''(2) Property listed in this paragraph is property that is specified under subsection (d), unless the State law that is applicable to the debtor under paragraph (3)(A) specifically does not so authorize.'';

(C) by striking ''(b) Notwithstanding'' and inserting ''(b)(1) Notwithstanding'';

(D) by striking ''paragraph (2)'' each place it appears and inserting ''paragraph (3)'';

(E) by striking ''paragraph (1)'' each place it appears and inserting ''paragraph (2)'';

(F) by striking ''Such property is—''; and

(G) by adding at the end the following:

''(4) For purposes of paragraph (3)(C) and subsection (d)(12), the following shall apply:

''(A) If the retirement funds are in a retirement fund that has received a favorable determination under section 7805 of the Internal Revenue Code of 1986, and that determination is in effect as of the date of the filing of the petition in a case under this title, those funds shall be presumed to be exempt from the estate.

''(B) If the retirement funds are in a retirement fund that has not received a favorable determination under such section 7805, those funds are exempt from the estate if the debtor demonstrates that—

''(i) no prior determination to the contrary has been made by a court or the Internal Revenue Service; and

''(ii)(I) the retirement fund is in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986; or

''(II) the retirement fund fails to be in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986 and the debtor is not materially responsible for that failure.

''(C) A direct transfer of retirement funds from 1 fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986, under section 401(a)(31) of the Internal Revenue Code of 1986, or otherwise, shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of such direct transfer.

''(D)(i) Any distribution that qualifies as an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code of 1986 or that is described in clause (ii) shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of such distribution.

''(ii) A distribution described in this clause is an amount that—

''(I) has been distributed from a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986; and

''(II) to the extent allowed by law, is deposited in such a fund or account not later than 60 days after the distribution of such amount.''; and

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking ''subsection (b)(1)'' and inserting ''subsection (b)(2)''; and

(B) by adding at the end the following:

''(12) Retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, is amended—

(1) in paragraph (17), by striking ''or'' at the end;

(2) in paragraph (18), by striking the period and inserting a semicolon; and

(3) by inserting after paragraph (18) the following:

''(19) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, under the debtor's agreement authorizing that withholding and collection for the benefit of a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, that is sponsored by the employer of the debtor, or an affiliate, successor, or predecessor of such employer—

''(A) to the extent that the amounts withheld and collected are used solely for payments relating to a loan from a plan under section 408(b)(1) of the Employee Retirement Income Security Act of 1974 or is subject to section 72(p) of the Internal Revenue Code of 1986; or

''(B) a loan from a thrift savings plan permitted under subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title;

but nothing in this paragraph may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title;''.

(c) EXCEPTIONS TO DISCHARGE.—Section 523(a) of title 11, United States Code, as amended by section 215, is amended by inserting after paragraph (17) the following:

''(18) owed to a pension, profit-sharing, stock bonus, or other plan established under

section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, under—

''(A) a loan permitted under section 408(b)(1) of the Employee Retirement Income Security Act of 1974, or subject to section 72(p) of the Internal Revenue Code of 1986; or

''(B) a loan from a thrift savings plan permitted under subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title;

but nothing in this paragraph may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title; or''.

(d) PLAN CONTENTS.—Section 1322 of title 11, United States Code, is amended by adding at the end the following:

''(f) A plan may not materially alter the terms of a loan described in section 362(b)(19) and any amounts required to repay such loan shall not constitute 'disposable income' under section 1325.''.

(e) ASSET LIMITATION.—

(1) LIMITATION.—Section 522 of title 11, United States Code, is amended by adding at the end the following:

''(n) For assets in individual retirement accounts described in section 408 or 408A of the Internal Revenue Code of 1986, other than a simplified employee pension under section 408(k) of such Code or a simple retirement account under section 408(p) of such Code, the aggregate value of such assets exempted under this section, without regard to amounts attributable to rollover contributions under section 402(c), 402(e)(6), 403(a)(4), 403(a)(5), and 403(b)(8) of the Internal Revenue Code of 1986, and earnings thereon, shall not exceed $1,000,000 in a case filed by a debtor who is an individual, except that such amount may be increased if the interests of justice so require.''.

(2) ADJUSTMENT OF DOLLAR AMOUNTS.—Paragraphs (1) and (2) of section 104(b) of title 11, United States Code, are amended by inserting ''522(n),'' after ''522(d),''.

SEC. 225. PROTECTION OF EDUCATION SAVINGS IN BANKRUPTCY.

(a) EXCLUSIONS.—Section 541 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking ''or'' at the end;

(B) by redesignating paragraph (5) as paragraph (9); and

(C) by inserting after paragraph (4) the following:

''(5) 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 the filing of the petition in a case under this title, but—

''(A) only if the designated beneficiary of such account was a child, stepchild, grandchild, or stepgrandchild 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 any extension of credit; and

''(ii) are not excess contributions (as described in section 4973(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 in accordance with section 529(b)(1)(A) of the Internal Revenue Code of 1986 under a qualified State tuition program (as defined in section 529(b)(1) of such Code) not later than 365 days before the date of the filing of the petition in a case under this title, but—

''(A) only if the designated beneficiary of the amounts paid or contributed to such tuition program was a child, stepchild, grandchild, or stepgrandchild of the debtor for the taxable year for which funds were paid or contributed;

''(B) with respect to the aggregate amount paid or contributed to such program having the same designated beneficiary, only so much of such amount as does not exceed the total contributions permitted under section 529(b)(7) of such Code with respect to such beneficiary, as adjusted beginning on the date of the filing of the petition in a case under this title by the annual increase or decrease (rounded to the nearest tenth of 1 percent) in the education expenditure category of the Consumer Price Index prepared by the Department of Labor; and

''(C) in the case of funds paid or contributed to such program 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;''; and

(2) by adding at the end the following:

''(e) In determining whether any of the relationships specified in paragraph (5)(A) or (6)(A) of subsection (b) exists, a legally adopted child of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or a foster child of an individual (if such child has as the child's principal place of abode the home of the debtor and is a member of the debtor's household) shall be treated as a child of such individual by blood.''.

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by section 106, is amended by adding at the end the following:

''(c) In addition to meeting the requirements under subsection (a), a debtor shall file with the court a record of any interest that a debtor has in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) or under a qualified State tuition program (as defined in section 529(b)(1) of such Code).''.

SEC. 226. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (2) the following:

''(3) 'assisted person' means any person whose debts consist primarily of consumer debts and the value of whose nonexempt property is less than $150,000;'';

(2) by inserting after paragraph (4) the following:

''(4A) 'bankruptcy assistance' means any goods or services sold or otherwise provided to an assisted person with the express or implied purpose of providing information, advice, counsel, document preparation, or filing, or attendance at a creditors' meeting or appearing in a case or proceeding on behalf of another or providing legal representation with respect to a case or proceeding under this title;''; and

(3) by inserting after paragraph (12) the following:

''(12A) 'debt relief agency' means any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer under section 110, but does not include—

''(A) any person who is an officer, director, employee, or agent of a person who provides such assistance or of the bankruptcy petition preparer;

''(B) a nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

''(C) a creditor of such assisted person, to the extent that the creditor is assisting such assisted person to restructure any debt owed by such assisted person to the creditor;

''(D) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act), or any affiliate or subsidiary of such depository institution or credit union; or

''(E) an author, publisher, distributor, or seller of works subject to copyright protection under title 17, when acting in such capacity.''.

(b) CONFORMING AMENDMENT.—Section 104(b) of title 11, United States Code, is amended by inserting ''101(3),'' after ''sections'' each place it appears.

SEC. 227. RESTRICTIONS ON DEBT RELIEF AGENCIES.

(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

''§ 526. Restrictions on debt relief agencies

''(a) A debt relief agency shall not—

''(1) fail to perform any service that such agency informed an assisted person or prospective assisted person it would provide in connection with a case or proceeding under this title;

''(2) make any statement, or counsel or advise any assisted person or prospective assisted person to make a statement in a document filed in a case or proceeding under this title, that is untrue and misleading, or that upon the exercise of reasonable care, should have been known by such agency to be untrue or misleading;

''(3) misrepresent to any assisted person or prospective assisted person, directly or indirectly, affirmatively or by material omission, with respect to—

''(A) the services that such agency will provide to such person; or

''(B) the benefits and risks that may result if such person becomes a debtor in a case under this title; or

''(4) advise an assisted person or prospective assisted person to incur more debt in contemplation of such person filing a case under this title or to pay an attorney or bankruptcy petition preparer fee or charge for services performed as part of preparing for or representing a debtor in a case under this title.

''(b) Any waiver by any assisted person of any protection or right provided under this section shall not be enforceable against the debtor by any Federal or State court or any other person, but may be enforced against a debt relief agency.

''(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, other than such assisted person.

''(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 a 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 in a case or 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 section 521; or

''(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 subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorneys' fees as determined by the court.

''(4) The district courts of the United States for districts located in the State shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

''(5) Notwithstanding any other provision of Federal law and in addition to any other remedy provided under Federal or State law, if the court, on its own motion or on the 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.

''(d) 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 any State except to the extent that such law is inconsistent with those sections, and then only to the extent of the inconsistency; or

''(2) be deemed to limit or curtail the authority or ability—

''(A) of a State or subdivision or instrumentality thereof, to determine and enforce qualifications for the practice of law under the laws of that State; or

''(B) of a Federal court to determine and enforce the qualifications for the practice of law before that court.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 525, the following:

''526. Restrictions on debt relief agencies.''.

SEC. 228. DISCLOSURES.

(a) DISCLOSURES.—Subchapter II of chapter 5 of title 11, United States Code, as amended by section 227, is amended by adding at the end the following:

''§ 527. Disclosures

''(a) A debt relief agency providing bankruptcy assistance to an assisted person shall provide—

''(1) the written notice required under section 342(b)(1); and

''(2) to the extent not covered in the written notice described in paragraph (1), and not later than 3 business days after the first date on which a debt relief agency first offers to provide any bankruptcy assistance services to an assisted person, a clear and conspicuous written notice advising assisted persons that—

''(A) all information that the assisted person is required to provide with a petition and thereafter during a case under this title is required to be complete, accurate, and truthful;

''(B) all assets and all liabilities are required to be completely and accurately disclosed in the documents filed to commence the case, and the replacement value of each asset as defined in section 506 must be stated in those documents where requested after reasonable inquiry to establish such value;

''(C) current monthly income, the amounts specified in section 707(b)(2), and, in a case under chapter 13 of this title, disposable income (determined in accordance with section 707(b)(2)), are required to be stated after reasonable inquiry; and

''(D) information that an assisted person provides during their case may be audited pursuant to this title, and that failure to provide such information may result in dismissal of the case under this title or other sanction, including a criminal sanction.

''(b) A debt relief agency providing bankruptcy assistance to an assisted person shall provide each assisted person at the same time as the notices required under subsection (a)(1) the following statement, to the extent applicable, or one substantially similar. The statement shall be clear and conspicuous and shall be in a single document separate from other documents or notices provided to the assisted person:

''`IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER.

''`If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.

''`The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

''`Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief available under the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs, as well as in some cases a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a 'trustee' and by creditors.

''`If you choose to file a chapter 7 case, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so. A creditor is not permitted to coerce you into reaffirming your debts.

''`If you choose to file a chapter 13 case in which you repay your creditors what you can afford over 3 to 5 years, you may also want help with preparing your chapter 13 plan and with the confirmation hearing on your plan which will be before a bankruptcy judge.

''`If you select another type of relief under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out what should be done from someone familiar with that type of relief.

''`Your bankruptcy case may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can give you legal advice.'.

''(c) Except to the extent the debt relief agency provides the required information itself after reasonably diligent inquiry of the assisted person or others so as to obtain such information reasonably accurately for inclusion on the petition, schedules or statement of financial affairs, a debt relief agency providing bankruptcy assistance to an assisted person, to the extent permitted by nonbankruptcy law, shall provide each assisted person at the time required for the notice required under subsection (a)(1) reasonably sufficient information (which shall be provided in a clear and conspicuous writing) to the assisted person on how to provide all the information the assisted person is required to provide under this title pursuant to section 521, including—

''(1) how to value assets at replacement value, determine current monthly income, the amounts specified in section 707(b)(2) and, in a chapter 13 case, how to determine disposable income in accordance with section 707(b)(2) and related calculations;

''(2) how to complete the list of creditors, including how to determine what amount is owed and what address for the creditor should be shown; and

''(3) how to determine what property is exempt and how to value exempt property at replacement value as defined in section 506.

''(d) A debt relief agency shall maintain a copy of the notices required under subsection (a) of this section for 2 years after the date on which the notice is given the assisted person.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, as amended by section 227, is amended by inserting after the item relating to section 526 the following:

''527. Disclosures.''.

SEC. 229. REQUIREMENTS FOR DEBT RELIEF AGENCIES.

(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, as amended by sections 227 and 228, is amended by adding at the end the following:

''§ 528. Requirements for debt relief agencies

''(a) A debt relief agency shall—

''(1) not later than 5 business days after the first date on which such agency provides any bankruptcy assistance services to an assisted person, but prior to such assisted person's petition under this title being filed, execute a written contract with such assisted person that explains clearly and conspicuously—

''(A) the services such agency will provide to such assisted person; and

''(B) the fees or charges for such services, and the terms of payment;

''(2) provide the assisted person with a copy of the fully executed and completed contract;

''(3) clearly and conspicuously disclose in any advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public (whether in general media, seminars or specific mailings, telephonic or electronic messages, or otherwise) that the services or benefits are with respect to bankruptcy relief under this title; and

''(4) clearly and conspicuously use the following statement in such advertisement: 'We are a debt relief agency. We help people file

for bankruptcy relief under the Bankruptcy Code.' or a substantially similar statement.

''(b)(1) An advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public includes—

''(A) descriptions of bankruptcy assistance in connection with a chapter 13 plan whether or not chapter 13 is specifically mentioned in such advertisement; and

''(B) statements such as 'federally supervised repayment plan' or 'Federal debt restructuring help' or other similar statements that could lead a reasonable consumer to believe that debt counseling was being offered when in fact the services were directed to providing bankruptcy assistance with a chapter 13 plan or other form of bankruptcy relief under this title.

''(2) An advertisement, directed to the general public, indicating that the debt relief agency provides assistance with respect to credit defaults, mortgage foreclosures, eviction proceedings, excessive debt, debt collection pressure, or inability to pay any consumer debt shall—

''(A) disclose clearly and conspicuously in such advertisement that the assistance may involve bankruptcy relief under this title; and

''(B) include the following statement: 'We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code.' or a substantially similar statement.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, as amended by section 227 and 228, is amended by inserting after the item relating to section 527, the following:

''528. Requirements for debt relief agencies.''.

SEC. 230. GAO 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, or the bankruptcy courts, to provide to the Office of Child Support Enforcement promptly after the commencement of cases by debtors who are individuals under such title, the names and social security account numbers of such debtors for the purposes of allowing such Office to determine whether such debtors have outstanding obligations for child support (as determined on the basis of information in the Federal Case Registry or other national database).

(b) REPORT.—Not later than 300 days after the date of enactment of this Act, the Comptroller General shall submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report containing the results of the study required by subsection (a).

SEC. 231. PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION.

(a) LIMITATION.—Section 363(b)(1) of title 11, United States Code, is amended by striking the period at the end and inserting the following:

'', except that if the debtor in connection with offering a product or a service discloses to an individual a policy prohibiting the transfer of personally identifiable information about individuals to persons that are not affiliated with the debtor and if such policy is in effect on the date of the commencement of the case, then the trustee may not sell or lease personally identifiable information to any person unless—

''(A) such sale or such lease is consistent with such policy; or

''(B) after appointment of a consumer privacy ombudsman in accordance with section 332, and after notice and a hearing, the court approves such sale or such lease—

''(i) giving due consideration to the facts, circumstances, and conditions of such sale or such lease; and

''(ii) finding that no showing was made that such sale or such lease would violate applicable nonbankruptcy law.''.

(b) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (41) the following:

''(41A) 'personally identifiable information' means—

''(A) if provided by an individual to the debtor in connection with obtaining a product or a service from the debtor primarily for personal, family, or household purposes—

''(i) the first name (or initial) and last name of such individual, whether given at birth or time of adoption, or resulting from a lawful change of name;

''(ii) the geographical address of a physical place of residence of such individual;

''(iii) an electronic address (including an e-mail address) of such individual;

''(iv) a telephone number dedicated to contacting such individual at such physical place of residence;

''(v) a social security account number issued to such individual; or

''(vi) the account number of a credit card issued to such individual; or

''(B) if identified in connection with 1 or more of the items of information specified in subparagraph (A)—

''(i) a birth date, the number of a certificate of birth or adoption, or a place of birth; or

''(ii) any other information concerning an identified individual that, if disclosed, will result in contacting or identifying such individual physically or electronically;''.

SEC. 232. CONSUMER PRIVACY OMBUDSMAN.

(a) CONSUMER PRIVACY OMBUDSMAN.—Title 11 of the United States Code is amended by inserting after section 331 the following:

''§ 332. Consumer privacy ombudsman

''(a) If a hearing is required under section 363(b)(1)(B), the court shall order the United States trustee to appoint, not later than 5 days before the commencement of the hearing, 1 disinterested person (other than the United States trustee) to serve as the consumer privacy ombudsman in the case and shall require that notice of such hearing be timely given to such ombudsman.

''(b) The consumer privacy ombudsman may appear and be heard at such hearing and shall provide to the court information to assist the court in its consideration of the facts, circumstances, and conditions of the proposed sale or lease of personally identifiable information under section 363(b)(1)(B). Such information may include presentation of—

''(1) the debtor's privacy policy;

''(2) the potential losses or gains of privacy to consumers if such sale or such lease is approved by the court;

''(3) the potential costs or benefits to consumers if such sale or such lease is approved by the court; and

''(4) the potential alternatives that would mitigate potential privacy losses or potential costs to consumers.

''(c) A consumer privacy ombudsman shall not disclose any personally identifiable information obtained by the ombudsman under this title.''.

(b) COMPENSATION OF CONSUMER PRIVACY OMBUDSMAN.—Section 330(a)(1) of title 11, United States Code, is amended in the matter preceding subparagraph (A), by inserting ''a consumer privacy ombudsman appointed under section 332,'' before ''an examiner''.

(c) CONFORMING AMENDMENT.—The table of sections for subchapter II of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

''332. Consumer privacy ombudsman.''.

SEC. 233. PROHIBITION ON DISCLOSURE OF NAME OF MINOR CHILDREN.

(a) PROHIBITION.—Title 11 of the United States Code, as amended by section 106, is amended by inserting after section 111 the following:

''§ 112. Prohibition on disclosure of name of minor children

''The debtor may be required to provide information regarding a minor child involved in matters under this title but may not be required to disclose in the public records in the case the name of such minor child. The debtor may be required to disclose the name of such minor child in a nonpublic record that is maintained by the court and made available by the court for examination by the United States trustee, the trustee, and the auditor (if any) serving under section 586(f) of title 28, in the case. The court, the United States trustee, the trustee, and such auditor shall not disclose the name of such minor child maintained in such nonpublic record.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 11, United States Code, as amended by section 106, is amended by inserting after the item relating to section 111 the following:

''112. Prohibition on disclosure of name of minor children.''.

(c) CONFORMING AMENDMENT.—Section 107(a) of title 11, United States Code, is amended by inserting ''and subject to section 112'' after ''section''.

SEC. 234. PROTECTION OF PERSONAL INFORMATION.

(a) RESTRICTION OF PUBLIC ACCESS TO CERTAIN INFORMATION CONTAINED IN BANKRUPTCY CASE FILES.—Section 107 of title 11, United States Code, is amended by adding at the end the following:

''(c)(1) The bankruptcy court, for cause, may protect an individual, with respect to the following types of information to the extent the court finds that disclosure of such information would create undue risk of identity theft or other unlawful injury to the individual or the individual's property:

''(A) Any means of identification (as defined in section 1028(d) of title 18) contained in a paper filed, or to be filed, in a case under this title.

''(B) Other information contained in a paper described in subparagraph (A).

''(2) Upon ex parte application demonstrating cause, the court shall provide access to information protected pursuant to paragraph (1) to an entity acting pursuant to the police or regulatory power of a domestic governmental unit.

''(3) The United States trustee, bankruptcy administrator, trustee, and any auditor serving under section 586(f) of title 28—

''(A) shall have full access to all information contained in any paper filed or submitted in a case under this title; and

''(B) shall not disclose information specifically protected by the court under this title.''.

(b) SECURITY OF SOCIAL SECURITY ACCOUNT NUMBER OF DEBTOR IN NOTICE TO CREDITOR.—Section 342(c) of title 11, United States Code, is amended—

(1) by inserting ''last 4 digits of the'' before ''taxpayer identification number''; and

(2) by adding at the end the following: ''If the notice concerns an amendment that adds a creditor to the schedules of assets and liabilities, the debtor shall include the full taxpayer identification number in the notice sent to that creditor, but the debtor shall include only the last 4 digits of the taxpayer identification number in the copy of the notice filed with the court.''.

(c) CONFORMING AMENDMENT.—Section 107(a) of title 11, United States Code, is

amended by striking ''subsection (b),'' and inserting ''subsections (b) and (c),''.

TITLE III—DISCOURAGING BANKRUPTCY ABUSE

SEC. 301. TECHNICAL AMENDMENTS.

Section 523(a)(17) of title 11, United States Code, is amended—

(1) by striking ''by a court'' and inserting ''on a prisoner by any court'';

(2) by striking ''section 1915(b) or (f)'' and inserting ''subsection (b) or (f)(2) of section 1915''; and

(3) by inserting ''(or a similar non-Federal law)'' after ''title 28'' each place it appears.

SEC. 302. DISCOURAGING BAD FAITH REPEAT FILINGS.

Section 362(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking ''and'' at the end;

(2) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(3) if a single or joint case is filed by or against debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b)—

''(A) the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case;

''(B) on the motion of a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed; and

''(C) for purposes of subparagraph (B), a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

''(i) as to all creditors, if—

''(I) more than 1 previous case under any of chapters 7, 11, and 13 in which the individual was a debtor was pending within the preceding 1-year period;

''(II) a previous case under any of chapters 7, 11, and 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to—

''(aa) file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be a substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney);

''(bb) provide adequate protection as ordered by the court; or

''(cc) perform the terms of a plan confirmed by the court; or

''(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under chapter 7, 11, or 13 or any other reason to conclude that the later case will be concluded—

''(aa) if a case under chapter 7, with a discharge; or

''(bb) if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; and

''(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to actions of such creditor; and

''(4)(A)(i) if a single or joint case is filed by or against a debtor who is an individual under this title, and if 2 or more single or joint cases of the debtor were pending within the previous year but were dismissed, other than a case refiled under section 707(b), the stay under subsection (a) shall not go into effect upon the filing of the later case; and

''(ii) on request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect;

''(B) if, within 30 days after the filing of the later case, a party in interest requests the court may order the stay to take effect in the case as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and a hearing, only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed;

''(C) a stay imposed under subparagraph (B) shall be effective on the date of the entry of the order allowing the stay to go into effect; and

''(D) for purposes of subparagraph (B), a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

''(i) as to all creditors if—

''(I) 2 or more previous cases under this title in which the individual was a debtor were pending within the 1-year period;

''(II) a previous case under this title in which the individual was a debtor was dismissed within the time period stated in this paragraph after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to provide adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

''(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under this title, or any other reason to conclude that the later case will not be concluded, if a case under chapter 7, with a discharge, and if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; or

''(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, such action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to such action of such creditor.''.

SEC. 303. CURBING ABUSIVE FILINGS.

(a) IN GENERAL.—Section 362(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking ''or'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(4) with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real property, if the court finds that the filing of the 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, such real property without the consent of the secured creditor or court approval; or

''(B) multiple bankruptcy filings affecting such real property.

If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under paragraph (4) shall be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order by the court, except that a debtor in a subsequent case under this title may move for relief from such order based upon changed 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) of title 11, United States Code, as amended by section 224, is amended by inserting after paragraph (19), the following:

''(20) under subsection (a), of any act to enforce any lien against or security interest in real property following entry of the order under subsection (d)(4) as to such real property in any prior case under this title, for a period of 2 years after the date of the entry of such an order, except that the debtor, in a subsequent case under this title, 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 against or security interest in real property—

''(A) if the debtor is ineligible under section 109(g) to be a debtor in a case under this title; or

''(B) if the case under this title was filed in violation of a bankruptcy court order in a prior case under this title prohibiting the debtor from being a debtor in another case under this title;''.

SEC. 304. DEBTOR RETENTION OF PERSONAL PROPERTY SECURITY.

Title 11, United States Code, is amended—

(1) in section 521(a), as so designated by section 106—

(A) in paragraph (4), by striking '', and'' at the end and inserting a semicolon;

(B) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(6) in a case under chapter 7 of this title in which the debtor is an individual, not retain possession of personal property as to which a creditor has an allowed claim for the purchase price secured in whole or in part by an interest in such personal property unless 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) with respect to the claim secured by such property; or

''(B) redeems such property from the security interest pursuant to section 722.

If the debtor fails to so act within the 45-day period referred to in paragraph (6), the stay under section 362(a) 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 filed before the expiration of such 45-day period, and after notice and a hearing, that such property is of consequential value or benefit to the estate, orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee.''; and

(2) in section 722, by inserting ''in full at the time of redemption'' before the period at the end.

SEC. 305. RELIEF FROM THE AUTOMATIC STAY WHEN THE DEBTOR DOES NOT COMPLETE INTENDED SURRENDER OF CONSUMER DEBT COLLATERAL.

Title 11, United States Code, is amended—

(1) in section 362, as amended by section 106—

(A) in subsection (c), by striking ''(e), and (f)'' and inserting ''(e), (f), and (h)'';

(B) by redesignating subsection (h) as subsection (k) and transferring such subsection so as to insert it after subsection (j) as added by section 106; and

(C) by inserting after subsection (g) the following:

''(h)(1) In a case in which the debtor is an individual, the stay provided by subsection (a) is terminated with respect to personal property of the estate or of the debtor securing in whole or in part a claim, or subject to an unexpired lease, and such personal property shall no longer be property of the estate if the debtor fails within the applicable time set by section 521(a)(2)—

''(A) to file timely any statement of intention required under section 521(a)(2) with respect to such personal property or to indicate in such statement that the debtor will either surrender such personal property or retain it and, if retaining such personal property, either redeem such personal property pursuant to section 722, enter into an agreement of the kind specified in section 524(c) applicable to the debt secured by such personal property, or assume such unexpired lease pursuant to section 365(p) if the trustee does not do so, as applicable; and

''(B) to take timely the action specified in such statement, as it may be amended before expiration of the period for taking action, unless such statement specifies the debtor's intention to reaffirm such debt on the original contract terms and the creditor refuses to agree to the reaffirmation on such terms.

''(2) Paragraph (1) does not apply if the court determines, on the motion of the trustee filed before the expiration of the applicable time set by section 521(a)(2), after notice and a hearing, that such personal property is of consequential value or benefit to the estate, and orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee. If the court does not so determine, the stay provided by subsection (a) shall terminate upon the conclusion of the hearing on the motion.''; and

(2) in section 521, as amended by sections 106 and 225—

(A) in subsection (a)(2) by striking ''consumer'';

(B) in subsection (a)(2)(B)—

(i) by striking ''forty-five days after the filing of a notice of intent under this section'' and inserting ''30 days after the first date set for the meeting of creditors under section 341(a)''; and

(ii) by striking ''forty-five day'' and inserting ''30-day'';

(C) in subsection (a)(2)(C) by inserting '', except as provided in section 362(h)'' before the semicolon; and

(D) by adding at the end the following:

''(d) 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), with respect to property which a lessor or bailor owns and has leased, rented, or bailed to the debtor or as to which a creditor holds a security interest not otherwise voidable under section 522(f), 544, 545, 547, 548, or 549, nothing in this title shall prevent or limit the operation of a provision in the underlying lease or agreement that has the effect of placing the debtor in default under such lease or agreement by reason of the occurrence, pendency, or existence of a proceeding under this title or the insolvency of the debtor. Nothing in this subsection shall be deemed to justify limiting such a provision in any other circumstance.''.

SEC. 306. GIVING SECURED CREDITORS FAIR TREATMENT IN CHAPTER 13.

(a) IN GENERAL.—Section 1325(a)(5)(B)(i) of title 11, United States Code, is amended to read as follows:

''(i) the plan provides that—

''(I) the holder of such claim retain the lien securing such claim until the earlier of—

''(aa) the payment of the underlying debt determined under nonbankruptcy law; or

''(bb) discharge under section 1328; and

''(II) if the case under this chapter is dismissed or converted without completion of the plan, such lien shall also be retained by such holder to the extent recognized by applicable nonbankruptcy law; and''.

(b) RESTORING THE FOUNDATION FOR SECURED CREDIT.—Section 1325(a) of title 11, United States Code, is amended by adding at the end the following:

''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 910-day preceding the date of the filing of the petition, and the collateral for that debt consists of a motor vehicle (as defined in section 30102 of title 49) acquired for the personal use of the debtor, or if collateral for that debt consists of any other thing of value, if the debt was incurred during the 1-year period preceding that filing.''.

(c) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (13) the following:

''(13A) 'debtor's principal residence'—

''(A) means a residential structure, including incidental property, without regard to whether that structure is attached to real property; and

''(B) includes an individual condominium or cooperative unit, a mobile or manufactured home, or trailer;''; and

(2) by inserting after paragraph (27), the following:

''(27A) 'incidental property' means, with respect to a debtor's principal residence—

''(A) property commonly conveyed with a principal residence in the area where the real property is located;

''(B) all easements, rights, appurtenances, fixtures, rents, royalties, mineral rights, oil or gas rights or profits, water rights, escrow funds, or insurance proceeds; and

''(C) all replacements or additions;''.

SEC. 307. DOMICILIARY REQUIREMENTS FOR EXEMPTIONS.

Section 522(b)(3) of title 11, United States Code, as so designated by section 106, is amended—

(1) in subparagraph (A)—

(A) by striking ''180 days'' and inserting ''730 days''; and

(B) by striking '', or for a longer portion of such 180-day period than in any other place'' and inserting ''or if the debtor's domicile has not been located at a single State for such 730-day period, the place in which the debtor's domicile was located for 180 days immediately preceding the 730-day period or for a longer portion of such 180-day period than in any other place''; and

(2) by adding at the end the following:

''If the effect of the domiciliary requirement under subparagraph (A) is to render the debtor ineligible for any exemption, the debtor may elect to exempt property that is specified under subsection (d).''.

SEC. 308. REDUCTION OF HOMESTEAD EXEMPTION FOR FRAUD.

Section 522 of title 11, United States Code, as amended by section 224, is amended—

(1) in subsection (b)(3)(A), as so designated by this Act, by inserting ''subject to subsections (o) and (p),'' before ''any property''; and

(2) by adding at the end the following:

''(o) For purposes of subsection (b)(3)(A), and notwithstanding subsection (a), the value of an interest in—

''(1) real or personal property that the debtor or a dependent of the debtor uses as a residence;

''(2) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence;

''(3) a burial plot for the debtor or a dependent of the debtor; or

''(4) real or personal property that the debtor or a dependent of the debtor claims as a homestead;

shall be reduced to the extent that such value is attributable to any portion of any property that the debtor disposed of in the 10-year period ending on the date of the filing of the petition with the intent to hinder, delay, or defraud a creditor and that the debtor could not exempt, or that portion that the debtor could not exempt, under subsection (b), if on such date the debtor had held the property so disposed of.''.

SEC. 309. PROTECTING SECURED CREDITORS IN CHAPTER 13 CASES.

(a) STOPPING ABUSIVE CONVERSIONS FROM CHAPTER 13.—Section 348(f)(1) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking ''and'' at the end;

(2) in subparagraph (B)—

(A) by striking ''in the converted case, with allowed secured claims'' and inserting ''only in a case converted to a case under chapter 11 or 12, but not in a case converted to a case under chapter 7, with allowed secured claims in cases under chapters 11 and 12''; and

(B) by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(C) with respect to cases converted from chapter 13—

''(i) the claim of any creditor holding security as of the date of the petition shall continue to be secured by that security unless the full amount of such claim determined under applicable nonbankruptcy law has been paid in full as of the date of conversion, notwithstanding any valuation or determination of the amount of an allowed secured claim made for the purposes of the case under chapter 13; and

''(ii) unless a prebankruptcy default has been fully cured under the plan at the time of conversion, in any proceeding under this title or otherwise, the default shall have the effect given under applicable nonbankruptcy law.''.

(b) GIVING DEBTORS THE ABILITY TO KEEP LEASED PERSONAL PROPERTY BY ASSUMPTION.—Section 365 of title 11, United States Code, is amended by adding at the end the following:

''(p)(1) If a lease of personal property is rejected or not timely assumed by the trustee under subsection (d), the leased property is no longer property of the estate and the stay under section 362(a) is automatically terminated.

''(2)(A) If the debtor in a case under chapter 7 is an individual, the debtor may notify the creditor in writing that the debtor desires to assume the lease. Upon being so notified, the creditor may, at its option, notify the debtor that it is willing to have the lease assumed by the debtor and may condition

such assumption on cure of any outstanding default on terms set by the contract.

''(B) If, not later than 30 days after notice is provided under subparagraph (A), the debtor notifies the lessor in writing that the lease is assumed, the liability under the lease will be assumed by the debtor and not by the estate.

''(C) The stay under section 362 and the injunction under section 524(a)(2) shall not be violated by notification of the debtor and negotiation of cure under this subsection.

''(3) In a case under chapter 11 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 1301 is automatically terminated with respect to the property subject to the lease.''.

(c) ADEQUATE PROTECTION OF LESSORS AND PURCHASE MONEY SECURED CREDITORS.—

(1) CONFIRMATION OF PLAN.—Section 1325(a)(5)(B) of title 11, United States Code, as amended by section 306, is amended—

(A) in clause (i), by striking ''and'' at the end;

(B) in clause (ii), by striking ''or'' at the end and inserting ''and''; and

(C) by adding at the end the following:

''(iii) if—

''(I) property to be distributed pursuant to this subsection is in the form of periodic payments, such payments shall be in equal monthly amounts; and

''(II) the holder of the claim is secured by personal property, the amount of such payments shall not be less than an amount sufficient to provide to the holder of such claim adequate protection during the period of the plan; or''.

(2) PAYMENTS.—Section 1326(a) of title 11, United States Code, is amended to read as follows:

''(a)(1) Unless the court orders otherwise, the debtor shall commence making payments not later than 30 days after the date of the filing of the plan or the order for relief, whichever is earlier, in the amount—

''(A) proposed by the plan to the trustee;

''(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 directly to a creditor holding an allowed 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, the trustee shall distribute any such payment in accordance with the plan as soon as is practicable. If a plan is not confirmed, the trustee shall return any such payments not previously paid and not yet due and owing 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.

''(4) 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 securing a claim attributable in whole or in part to the purchase price of such property shall provide the lessor or secured creditor reasonable evidence of the maintenance of any required insurance coverage with respect to the use or ownership of such property and continue to do so for so long as the debtor retains possession of such property.''.

SEC. 310. LIMITATION ON LUXURY GOODS.

Section 523(a)(2)(C) of title 11, United States Code, is amended to read as follows:

''(C)(i) for purposes of subparagraph (A)—

''(I) consumer debts owed to a single creditor and aggregating more than $500 for luxury goods or services incurred by an individual debtor on or within 90 days before the order for relief under this title are presumed to be nondischargeable; and

''(II) cash advances aggregating more than $750 that are extensions of consumer credit under an open end credit plan obtained by an individual debtor on or within 70 days before the order for relief under this title, are presumed to be nondischargeable; and

''(ii) for purposes of this subparagraph—

''(I) the terms 'consumer', 'credit', and 'open end credit plan' have the same meanings as in section 103 of the Truth in Lending Act; and

''(II) the term 'luxury goods or services' does not include goods or services reasonably necessary for the support or maintenance of the debtor or a dependent of the debtor.''.

SEC. 311. AUTOMATIC STAY.

(a) IN GENERAL.—Section 362(b) of title 11, United States Code, as amended by sections 224 and 303, is amended by inserting after paragraph (21), the following:

''(22) subject to subsection (l), under subsection (a)(3), of the continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential property in which the debtor resides as a tenant under a lease or rental agreement and with respect to which the lessor has obtained before the date of the filing of the bankruptcy petition, a judgment for possession of such property against the debtor;

''(23) subject to subsection (m), under subsection (a)(3), of an eviction action that seeks possession of the residential property in which the debtor resides as a tenant under a lease or rental agreement based on endangerment of such property or the illegal use of controlled substances on such property, but only if the lessor files with the court, and serves upon the debtor, a certification under penalty of perjury that such an eviction action has been filed, or that the debtor, during the 30-day period preceding the date of the filing of the certification, has endangered property or illegally used or allowed to be used a controlled substance on the property;

''(24) under subsection (a), of any transfer that is not avoidable under section 544 and that is not avoidable under section 549;''.

(b) LIMITATIONS.—Section 362 of title 11, United States Code, as amended by sections 106 and 305, is amended by adding at the end the following:

''(l)(1) Except as otherwise provided in this subsection, subsection (b)(22) shall apply on the date that is 30 days after the date on which the bankruptcy petition is filed, if the debtor files with the petition and serves upon the lessor a certification under penalty of perjury that—

''(A) under nonbankruptcy law applicable in the jurisdiction, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after that judgment for possession was entered; and

''(B) the debtor (or an adult dependent of the debtor) has deposited with the clerk of the court, any rent that would become due during the 30-day period after the filing of the bankruptcy petition.

''(2) If, within the 30-day period after the filing of the bankruptcy petition, the debtor (or an adult dependent of the debtor) complies with paragraph (1) and files with the court and serves upon the lessor a further certification under penalty of perjury that the debtor (or an adult dependent of the debtor) has cured, under nonbankrupcty law applicable in the jurisdiction, the entire monetary default that gave rise to the judgment under which possession is sought by the lessor, subsection (b)(22) shall not apply, unless ordered to apply by the court under paragraph (3).

''(3)(A) If the lessor files an objection to any certification filed by the debtor under paragraph (1) or (2), and serves such objection upon the debtor, the court shall hold a hearing within 10 days after the filing and service of such objection to determine if the certification filed by the debtor under paragraph (1) or (2) is true.

''(B) If the court upholds the objection of the lessor filed under subparagraph (A)—

''(i) subsection (b)(22) shall apply immediately and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

''(ii) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the court's order upholding the lessor's objection.

''(4) If a debtor, in accordance with paragraph (5), indicates on the petition that there was a judgment for possession of the residential rental property in which the debtor resides and does not file a certification under paragraph (1) or (2)—

''(A) subsection (b)(22) shall apply immediately upon failure to file such certification, and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

''(B) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the docket indicating the absence of a filed certification and the applicability of the exception to the stay under subsection (b)(22).

''(5)(A) Where a judgment for possession of residential property in which the debtor resides as a tenant under a lease or rental agreement has been obtained by the lessor, the debtor shall so indicate on the bankruptcy petition and shall provide the name and address of the lessor that obtained that pre-petition judgment on the petition and on any certification filed under this subsection.

''(B) The form of certification filed with the petition, as specified in this subsection, shall provide for the debtor to certify, and the debtor shall certify—

''(i) whether a judgment for possession of residential rental housing in which the debtor resides has been obtained against the debtor before the date of the filing of the petition; and

''(ii) whether the debtor is claiming under paragraph (1) that under nonbankruptcy law applicable in the jurisdiction, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after that judgment for possession was entered, and has made the appropriate deposit with the court.

''(C) The standard forms (electronic and otherwise) used in a bankruptcy proceeding shall be amended to reflect the requirements of this subsection.

''(D) The clerk of the court shall arrange for the prompt transmittal of the rent deposited in accordance with paragraph (1)(B) to the lessor.

''(m)(1) Except as otherwise provided in this subsection, subsection (b)(23) shall apply on the date that is 15 days after the date on which the lessor files and serves a certification described in subsection (b)(23).

''(2)(A) If the debtor files with the court an objection to the truth or legal sufficiency of the certification described in subsection (b)(23) and serves such objection upon the lessor, subsection (b)(23) shall not apply, unless ordered to apply by the court under this subsection.

''(B) If the debtor files and serves the objection under subparagraph (A), the court shall hold a hearing within 10 days after the filing and service of such objection to determine if the situation giving rise to the lessor's certification under paragraph (1) existed or has been remedied.

''(C) If the debtor can demonstrate to the satisfaction of the court that the situation giving rise to the lessor's certification under paragraph (1) did not exist or has been remedied, the stay provided under subsection (a)(3) shall remain in effect until the termination of the stay under this section.

''(D) If the debtor cannot demonstrate to the satisfaction of the court that the situation giving rise to the lessor's certification under paragraph (1) did not exist or has been remedied—

''(i) relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to proceed with the eviction; and

''(ii) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the court's order upholding the lessor's certification.

''(3) If the debtor fails to file, within 15 days, an objection under paragraph (2)(A)—

''(A) subsection (b)(23) shall apply immediately upon such failure and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

''(B) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the docket indicating such failure.''.

SEC. 312. EXTENSION OF PERIOD BETWEEN BANKRUPTCY DISCHARGES.

Title 11, United States Code, is amended—

(1) in section 727(a)(8), by striking ''six'' and inserting ''8''; and

(2) in section 1328, by inserting after subsection (e) the following:

''(f) Notwithstanding subsections (a) and (b), the court shall not grant a discharge of all debts provided for in the plan or disallowed under section 502, if the debtor has received a discharge—

''(1) in a case filed under chapter 7, 11, or 12 of this title during the 4-year period preceding the date of the order for relief under this chapter, or

''(2) in a case filed under chapter 13 of this title during the 2-year period preceding the date of such order.''.

SEC. 313. DEFINITION OF HOUSEHOLD GOODS AND ANTIQUES.

(a) DEFINITION.—Section 522(f) of title 11, United States Code, is amended by adding at the end the following:

''(4)(A) Subject to subparagraph (B), for purposes of paragraph (1)(B), the term 'household goods' means—

''(i) clothing;

''(ii) furniture;

''(iii) appliances;

''(iv) 1 radio;

''(v) 1 television;

''(vi) 1 VCR;

''(vii) linens;

''(viii) china;

''(ix) crockery;

''(x) kitchenware;

''(xi) educational materials and educational equipment primarily for the use of minor dependent children of the debtor;

(xii) medical equipment and supplies;

''(xiii) furniture exclusively for the use of minor children, or elderly or disabled dependents of the debtor;

''(xiv) personal effects (including the toys and hobby equipment of minor dependent children and wedding rings) of the debtor and the dependents of the debtor; and

''(xv) 1 personal computer and related equipment.

''(B) The term 'household goods' does not include—

''(i) works of art (unless by or of the debtor, or any relative of the debtor);

''(ii) electronic entertainment equipment with a fair market value of more than $500 in the aggregate (except 1 television, 1 radio, and 1 VCR);

''(iii) items acquired as antiques with a fair market value of more than $500 in the aggregate;

''(iv) jewelry with a fair market value of more than $500 in the aggregate (except wedding rings); and

''(v) a computer (except as otherwise provided for in this section), motor vehicle (including a tractor or lawn tractor), boat, or a motorized recreational device, conveyance, vehicle, watercraft, or aircraft.''.

(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 Committee on the Judiciary of the Senate and the Committee 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 subsection (a), with respect to the avoidance of nonpossessory, nonpurchase money security interests in household goods under section 522(f)(1)(B) of title 11, United States Code, and the impact such section 522(f)(4) has had on debtors and on the bankruptcy courts. Such report may include recommendations for amendments to such section 522(f)(4) consistent with the Director's findings.

SEC. 314. DEBT INCURRED TO PAY NONDISCHARGEABLE DEBTS.

(a) IN GENERAL.—Section 523(a) 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 (2), (3), (4), (5), (8), or (9) of section 523(a);

''(3) for restitution, or a criminal fine, included in a sentence on the debtor's conviction of a crime; or

''(4) for restitution, or damages, awarded in a civil action against the debtor as a result of willful or malicious injury by the debtor that caused personal injury to an individual or the death of an individual.''.

SEC. 315. GIVING CREDITORS FAIR NOTICE IN CHAPTERS 7 AND 13 CASES.

(a) NOTICE.—Section 342 of title 11, United States Code, as amended by section 102, is amended—

(1) in subsection (c)—

(A) by inserting ''(1)'' after ''(c)'';

(B) by striking '', but the failure of such notice to contain such information shall not invalidate the legal effect of such notice''; and

(C) by adding at the end the following:

''(2)(A) If, within the 90 days before the commencement of a voluntary case, a creditor supplies the debtor in at least 2 communications sent to the debtor with the current account number of the debtor and the address at which such creditor requests to receive correspondence, then any notice required by this title to be sent by the debtor to such creditor shall be sent to such address and shall include such account number.

''(B) If a creditor would be in violation of applicable nonbankruptcy law by sending any such communication within such 90-day period and if such creditor supplies the debtor in the last 2 communications with the current account number of the debtor and the address at which such creditor requests to receive correspondence, then any notice required by this title to be sent by the debtor to such creditor shall be sent to such address and shall include such account number.''; and

(2) by adding at the end the following:

''(e)(1) In a case under chapter 7 or 13 of this title of a debtor who is an individual, a creditor at any time may both file with the court and serve on the debtor a notice of address to be used to provide notice in such case to such creditor.

''(2) Any notice in such case required to be provided to such creditor by the debtor or the court later than 5 days after the court and the debtor receive such creditor's notice of address, shall be provided to such address.

''(f)(1) An entity may file with any bankruptcy court a notice of address to be used by all the bankruptcy courts or by particular bankruptcy courts, as so specified by such entity at the time such notice is filed, to provide notice to such entity in all cases under chapters 7 and 13 pending in the courts with respect to which such notice is filed, in which such entity is a creditor.

''(2) In any case filed under chapter 7 or 13, any notice required to be provided by a court with respect to which a notice is filed under paragraph (1), to such entity later than 30 days after the filing of such notice under paragraph (1) shall be provided to such address unless with respect to a particular case a different address is specified in a notice filed and served in accordance with subsection (e).

''(3) A notice filed under paragraph (1) may be withdrawn by such entity.

''(g)(1) Notice provided to a creditor by the debtor or the court other than in accordance with this section (excluding this subsection) shall not be effective notice until such notice is brought to the attention of such creditor. If such creditor designates a person or an organizational subdivision of such creditor to be responsible for receiving notices under this title and establishes reasonable procedures so that such notices receivable by such creditor are to be delivered to such person or such subdivision, then a notice provided to such creditor other than in accordance with this section (excluding this subsection) shall not be considered to have been brought to the attention of such creditor until such notice is received by such person or such subdivision.

''(2) A monetary penalty may not be imposed on a creditor for a violation of a stay in effect under section 362(a) (including a monetary penalty imposed under section 362(k)) or for failure to comply with section 542 or 543 unless the conduct that is the basis of such violation or of such failure occurs after such creditor receives notice effective under this section of the order for relief.''.

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by sections 106, 225, and 305, is amended—

(1) in subsection (a), as so designated by section 106, by amending paragraph (1) to read as follows:

''(1) file—

''(A) a list of creditors; and

''(B) unless the court orders otherwise—

''(i) a schedule of assets and liabilities;

''(ii) a schedule of current income and current expenditures;

''(iii) a statement of the debtor's financial affairs and, if section 342(b) applies, a certificate—

''(I) of an attorney whose name is indicated on the petition as the attorney for the debtor, or a bankruptcy petition preparer signing the petition under section 110(b)(1), indicating that such attorney or the bankruptcy petition preparer delivered to the debtor the notice required by section 342(b); or

''(II) if no attorney is so indicated, and no bankruptcy petition preparer signed the petition, of the debtor that such notice was received and read by the debtor;

''(iv) copies of all payment advices or other evidence of payment received within 60 days before the date of the filing of the petition, by the debtor from any employer of the debtor;

''(v) a statement of the amount of monthly net income, itemized to show how the amount is calculated; and

''(vi) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of the filing of the petition;''; and

(2) by adding at the end the following:

''(e)(1) If the debtor in a case under chapter 7 or 13 is an individual and if a creditor files with the court at any time a request to receive a copy of the petition, schedules, and statement of financial affairs filed by the debtor, then the court shall make such petition, such schedules, and such statement available to such creditor.

''(2)(A) The debtor shall provide—

''(i) not later than 7 days before the date first set for the first meeting of creditors, to the trustee a copy of the Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such return) for the most recent tax year ending immediately before the commencement of the case and for which a Federal income tax return was filed; and

''(ii) at the same time the debtor complies with clause (i), a copy of such return (or if elected under clause (i), such transcript) to any creditor that timely requests such copy.

''(B) If the debtor fails to comply with clause (i) or (ii) of subparagraph (A), the court shall dismiss the case unless the debtor demonstrates that the failure to so comply is due to circumstances beyond the control of the debtor.

''(C) If a creditor requests a copy of such tax return or such transcript and if the debtor fails to provide a copy of such tax return or such transcript to such creditor at the time the debtor provides such tax return or such transcript to the trustee, then the court shall dismiss the case unless the debtor demonstrates that the failure to provide a copy of such tax return or such transcript is due to circumstances beyond the control of the debtor.

''(3) If a creditor in a case under chapter 13 files with the court at any time a request to receive a copy of the plan filed by the debtor, then the court shall make available to such creditor a copy of the plan—

''(A) at a reasonable cost; and

''(B) not later than 5 days after such request is filed.

''(f) At the request of the court, the United States trustee, or any party in interest in a case under chapter 7, 11, or 13, a debtor who is an individual shall file with the court—

''(1) at the same time filed with the taxing authority, a copy of each Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such tax return) with respect to each tax year of the debtor ending while the case is pending under such chapter;

''(2) at the same time filed with the taxing authority, each Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such tax return) that had not been filed with such authority as of the date of the commencement of the case and that was subsequently filed for any tax year of the debtor ending in the 3-year period ending on the date of the commencement of the case;

''(3) a copy of each amendment to any Federal income tax return or transcript filed with the court under paragraph (1) or (2); and

''(4) in a case under chapter 13—

''(A) on the date that is either 90 days after the end of such tax year or 1 year after the date of the commencement of the case, whichever is later, if a plan is not confirmed before such later date; and

''(B) annually after the plan is confirmed and until the case is closed, not later than the date that is 45 days before the anniversary of the confirmation of the plan;

a statement, under penalty of perjury, of the income and expenditures of the debtor during the tax year of the debtor most recently concluded before such statement is filed under this paragraph, and of the monthly income of the debtor, that shows how income, expenditures, and monthly income are calculated.

''(g)(1) A statement referred to in subsection (f)(4) shall disclose—

''(A) the amount and sources of the 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 subsections (e)(2)(A) and (f) shall be available to the United States trustee (or the bankruptcy administrator, if any), the trustee, and any party in interest for inspection and copying, subject to the requirements of section 315(c) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

''(h) If requested by the United States trustee or by the trustee, the debtor shall provide—

''(1) a document that establishes the identity of the debtor, including a driver's license, passport, or other document that contains a photograph of the debtor; or

''(2) such other personal identifying information relating to the debtor that establishes the identity of the debtor.''.

(c)(1) Not later than 180 days after the date of the enactment of this Act, 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 540 days after the date of enactment of this Act, the Director of the Administrative Office of the United States Courts shall prepare and submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report that—

(A) assesses the effectiveness of the procedures established under paragraph (1); and

(B) if appropriate, includes proposed legislation to—

(i) further protect the confidentiality of tax information; and

(ii) provide penalties for the improper use by any person of the tax information required to be provided under this section.

SEC. 316. DISMISSAL FOR FAILURE TO TIMELY FILE SCHEDULES OR PROVIDE REQUIRED INFORMATION.

Section 521 of title 11, United States Code, as amended by sections 106, 225, 305, and 315, is amended by adding at the end the following:

''(i)(1) Subject to paragraphs (2) and (4) and notwithstanding section 707(a), if an individual debtor in a voluntary case under chapter 7 or 13 fails to file all of the information required under subsection (a)(1) within 45 days after the date of the filing of the petition, the case shall be automatically dismissed effective on the 46th day after the date of the filing of the petition.

''(2) Subject to paragraph (4) and with respect to a case described in paragraph (1), any party in interest may request the court to enter an order dismissing the case. If requested, the court shall enter an order of dismissal not later than 5 days after such request.

''(3) Subject to paragraph (4) and upon request of the debtor made within 45 days after the date of the filing of the petition described in paragraph (1), the court may allow the debtor an additional period of not to exceed 45 days to file the information required under subsection (a)(1) if the court finds justification for extending the period for the filing.

''(4) Notwithstanding any other provision of this subsection, on the motion of the trustee filed before the expiration of the applicable period of time specified in paragraph (1), (2), or (3), and after notice and a hearing, the court may decline to dismiss the case if the court finds that the debtor attempted in good faith to file all the information required by subsection (a)(1)(B)(iv) and that the best interests of creditors would be served by administration of the case.''.

SEC. 317. ADEQUATE TIME TO PREPARE FOR HEARING ON CONFIRMATION OF THE PLAN.

Section 1324 of title 11, United States Code, is amended—

(1) by striking ''After'' and inserting the following:

''(a) Except as provided in subsection (b) and after''; and

(2) by adding at the end the following:

''(b) The hearing on confirmation of the plan may be held not earlier than 20 days and not later than 45 days after the date of the meeting of creditors under section 341(a), unless the court determines that it would be in the best interests of the creditors and the estate to hold such hearing at an earlier date and there is no objection to such earlier date.''.

SEC. 318. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION IN CERTAIN CASES.

Title 11, United States Code, is amended—

(1) by amending section 1322(d) to read as follows:

''(d)(1) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than—

''(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

''(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; 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, plus $525 per month for each individual in excess of 4,

the plan may not provide for payments over a period that is longer than 5 years.

''(2) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is less than—

''(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

''(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; 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, plus $525 per month for each individual 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 commitment period''; and

(3) in section 1325(b), as amended by section 102, by adding at the end the following:

''(4) For purposes of this subsection, the 'applicable commitment period'—

''(A) subject to subparagraph (B), shall be—

''(i) 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—

''(I) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

''(II) 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; or

''(III) 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, plus $525 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 allowed unsecured claims over a shorter period.''; and

(4) in section 1329(c), by striking ''three years'' and inserting ''the applicable commitment period under section 1325(b)(1)(B)''.

SEC. 319. SENSE OF CONGRESS REGARDING EXPANSION OF RULE 9011 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE.

It is the sense of Congress that rule 9011 of the Federal Rules of Bankruptcy Procedure (11 U.S.C. App.) should be modified to include a requirement that all documents (including schedules), signed and unsigned, submitted to the court or to a trustee by debtors who represent themselves and debtors who are represented by attorneys be submitted only after the debtors or the debtors' attorneys have made reasonable inquiry to verify that the information contained in such documents is—

(1) well grounded in fact; and

(2) warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law.

SEC. 320. PROMPT RELIEF FROM STAY IN INDIVIDUAL CASES.

Section 362(e) of title 11, United States Code, is amended—

(1) by inserting ''(1)'' after ''(e)''; and

(2) by adding at the end the following:

''(2) Notwithstanding paragraph (1), in a case under chapter 7, 11, or 13 in which the debtor is an individual, the stay under subsection (a) shall terminate on the date that is 60 days after a request is made by a party in interest under subsection (d), unless—

''(A) a final decision is rendered by the court during the 60-day period beginning on the date of the request; or

''(B) such 60-day period is extended—

''(i) by agreement of all parties in interest; or

''(ii) by the court for such specific period of time as the court finds is required for good cause, as described in findings made by the court.''.

SEC. 321. CHAPTER 11 CASES FILED BY INDIVIDUALS.

(a) PROPERTY OF THE ESTATE.—

(1) IN GENERAL.—Subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end the following:

''§ 1115. Property of the estate

''(a) In a case in which the debtor is an individual, property of the estate includes, in addition to the property specified in section 541—

''(1) all property of the kind specified in section 541 that the debtor acquires after the commencement 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 converted to a case under chapter 7, 12, or 13, whichever occurs first.

''(b) 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 sections for subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end the following:

''1115. Property of the estate.''.

(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 in which the debtor is an individual, provide for the payment to creditors under the plan of all or such portion of earnings from personal services performed by the debtor after the commencement of the case or other future income of the debtor as is necessary for the execution of the plan.''.

(c) CONFIRMATION OF PLAN.—

(1) REQUIREMENTS RELATING TO VALUE OF PROPERTY.—Section 1129(a) of title 11, United States Code, as amended by section 213, is amended by adding at the end the following:

''(15) In a case in which the debtor is an individual and in which the holder of an allowed unsecured claim objects to the confirmation of the plan—

''(A) the value, as of the effective date of the plan, of the property to be distributed under the plan on account of such claim is not less than the amount of such claim; or

''(B) the value of the property to be distributed under the plan is not less than the projected disposable income of the debtor (as defined in section 1325(b)(2)) to be received during the 5-year period beginning on the date that the first payment is due under the plan, or during the period for which the plan provides payments, whichever is longer.''.

(2) REQUIREMENT RELATING TO INTERESTS IN PROPERTY.—Section 1129(b)(2)(B)(ii) of title 11, United States Code, is amended by inserting before the period at the end the following: '', except that in a case in which the debtor is an individual, the debtor may retain property included in the estate under section 1115, subject to the requirements of subsection (a)(14) of this section''.

(d) EFFECT OF CONFIRMATION.—Section 1141(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking ''The confirmation of a plan does not discharge an individual debtor'' and inserting ''A discharge under this chapter does not discharge a debtor who is an individual''; and

(2) by adding at the end the following:

''(5) In a case in which the debtor is an individual—

''(A) unless after notice and a hearing the court orders otherwise for cause, confirmation of the plan does not discharge any debt provided for in the plan until the court grants a discharge on completion of all payments under the plan;

''(B) at any time after the confirmation of the plan, and after notice and a hearing, the court may grant a discharge to the debtor who has not completed payments under the plan if—

''(i) the value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed unsecured claim is not less than the amount that would have been paid on such claim if the estate of the debtor had been liquidated under chapter 7 on such date; and

''(ii) modification of the plan under section 1127 is not practicable; and''.

(e) MODIFICATION OF PLAN.—Section 1127 of title 11, United States Code, is amended by adding at the end the following:

''(e) If the debtor is an individual, the plan may be modified at any time after confirmation of the plan but before the completion of payments under the plan, whether or not the plan has been substantially consummated, upon request of the debtor, the trustee, the United States trustee, or the holder of an allowed unsecured claim, to—

''(1) increase or reduce the amount of payments on claims of a particular class provided for by the plan;

''(2) extend or reduce the time period for such payments; or

''(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of such claim made other than under the plan.

''(f)(1) Sections 1121 through 1128 and the requirements of section 1129 apply to any modification under subsection (a).

''(2) The plan, as modified, shall become the plan only after there has been disclosure under section 1125 as the court may direct, notice and a hearing, and such modification is approved.''.

SEC. 322. LIMITATIONS ON HOMESTEAD EXEMPTION.

(a) EXEMPTIONS.—Section 522 of title 11, United States Code, as amended by sections 224 and 308, is amended by adding at the end the following:

''(p)(1) Except as provided in paragraph (2) of this subsection and sections 544 and 548, 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 was acquired by the debtor during the 1215-day period preceding the date of the filing of the petition that exceeds in the aggregate $125,000 in value in—

''(A) real or personal property that the debtor or a dependent of the debtor uses as a residence;

''(B) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence;

''(C) a burial plot for the debtor or a dependent of the debtor; or

''(D) real or personal property that the debtor or dependent of the debtor claims as a homestead.

''(2)(A) The limitation under paragraph (1) shall not apply to an exemption claimed under subsection (b)(3)(A) by a family farmer for the principal residence of such farmer.

''(B) For purposes of paragraph (1), any amount of such interest does not include any interest transferred from a debtor's previous principal residence (which was acquired prior to the beginning of such 1215-day period) into the debtor's current principal residence, if the debtor's previous and current residences are located in the same State.

''(q)(1) 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 an interest in property described in subparagraphs (A), (B), (C), and (D) of subsection (p)(1) which exceeds in the aggregate $125,000 if—

''(A) the court determines, after notice and a hearing, that the debtor has been convicted of a felony (as defined in section 3156 of title 18), which under the circumstances, demonstrates that the filing of the case was an abuse of the provisions of this title; or

''(B) the debtor owes a debt arising from—

''(i) any violation of the Federal securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934), any State securities laws, or any regulation or order issued under Federal securities laws or State securities laws;

''(ii) fraud, deceit, or manipulation in a fiduciary capacity or in connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 or under section 6 of the Securities Act of 1933;

''(iii) any civil remedy under section 1964 of title 18; or

''(iv) any criminal act, intentional tort, or willful or reckless misconduct that caused serious physical injury or death to another individual in the preceding 5 years.

''(2) Paragraph (1) shall not apply to the extent the amount of an interest in property described in subparagraphs (A), (B), (C), and (D) of subsection (p)(1) is reasonably necessary for the support of the debtor and any dependent of the debtor.''.

(b) ADJUSTMENT OF DOLLAR AMOUNTS.—Paragraphs (1) and (2) of section 104(b) of title 11, United States Code, as amended by section 224, are amended by inserting ''522(p), 522(q),'' after ''522(n),''.

SEC. 323. EXCLUDING EMPLOYEE BENEFIT PLAN PARTICIPANT CONTRIBUTIONS AND OTHER PROPERTY FROM THE ESTATE.

Section 541(b) of title 11, United States Code, as amended by section 225, is amended by adding after paragraph (6), as added by section 225(a)(1)(C), the following:

''(7) any amount—

''(A) withheld by an employer from the wages of employees for payment as contributions—

''(i) to—

''(I) an employee benefit plan that is subject to title I of the Employee Retirement Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986;

''(II) a deferred compensation plan under section 457 of the Internal Revenue Code of 1986; or

''(III) a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986;

except that such amount under this subparagraph shall not constitute disposable income as defined in section 1325(b)(2); or

''(ii) to a health insurance plan regulated by State law whether or not subject to such title; or

''(B) received by an employer from employees for payment as contributions—

''(i) to—

''(I) an employee benefit plan that is subject to title I of the Employee Retirement Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986;

''(II) a deferred compensation plan under section 457 of the Internal Revenue Code of 1986; or

''(III) a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986;

except that such amount under this subparagraph shall not constitute disposable income, as defined in section 1325(b)(2); or

''(ii) to a health insurance plan regulated by State law whether or not subject to such title;''.

SEC. 324. EXCLUSIVE JURISDICTION IN MATTERS INVOLVING BANKRUPTCY PROFESSIONALS.

(a) IN GENERAL.—Section 1334 of title 28, United States Code, is amended—

(1) in subsection (b), by striking ''Notwithstanding'' 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—

''(1) of all the property, wherever located, of the debtor as of the commencement of such case, and of property of the estate; and

''(2) over all claims or causes of action that involve construction 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. 325. UNITED STATES TRUSTEE PROGRAM FILING FEE INCREASE.

(a) ACTIONS UNDER CHAPTER 7, 11, OR 13 OF TITLE 11, UNITED STATES CODE.—Section 1930(a) of title 28, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) For a case commenced under—

''(A) chapter 7 of title 11, $200; and

''(B) chapter 13 of title 11, $150.''; and

(2) in paragraph (3), by striking ''$800'' and inserting ''$1000''.

(b) UNITED STATES TRUSTEE SYSTEM FUND.—Section 589a(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; and

''(B) 70.00 percent of the fees collected under section 1930(a)(1)(B);'';

(2) in paragraph (2), by striking ''one-half'' and inserting ''75 percent''; and

(3) in paragraph (4), by striking ''one-half'' and inserting ''100 percent''.

(c) COLLECTION AND DEPOSIT OF MISCELLANEOUS BANKRUPTCY FEES.—Section 406(b) of the Judiciary Appropriations Act, 1990 (28 U.S.C. 1931 note) is amended by striking ''pursuant to 28 U.S.C. section 1930(b)'' and all that follows through ''28 U.S.C. section 1931'' and inserting ''under section 1930(b) of title 28, United States Code, 31.25 of the fees collected under section 1930(a)(1)(A) of that title, 30.00 percent of the fees collected under section 1930(a)(1)(B) of that title, and 25 percent of the fees collected under section 1930(a)(3) of that title shall be deposited as offsetting receipts to the fund established under section 1931 of that title''.

(d) SUNSET DATE.—The amendments made by subsections (b) and (c) shall be effective during the 2-year period beginning on the date of enactment of this Act.

(e) USE OF INCREASED RECEIPTS.—

(1) JUDGES' SALARIES AND BENEFITS.—The amount of fees collected under paragraphs (1) and (3) of section 1930(a) of title 28, United States Code, during the 5-year period beginning on the date of enactment of this Act, that is greater than the amount that would have been collected if the amendments made by subsection (a) had not taken effect shall be used, to the extent necessary, to pay the salaries and benefits of the judges appointed pursuant to section 1223 of this Act.

(2) REMAINDER.—Any amount described in paragraph (1), which is not used for the purpose described in paragraph (1), shall be deposited into the Treasury of the United States to the extent necessary to offset the decrease in governmental receipts resulting from the amendments made by subsections (b) and (c).

SEC. 326. 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 that operates in accordance with non-Federal law regulating attorney referral services and with rules of professional responsibility applicable to attorney acceptance of referrals.''.

SEC. 327. FAIR VALUATION OF COLLATERAL.

Section 506(a) of title 11, United States Code, is amended by—

(1) inserting ''(1)'' after ''(a)''; and

(2) by adding at the end the following:

''(2) If the debtor is an individual in a case under chapter 7 or 13, such value with respect to personal property securing an allowed claim shall be determined based on the replacement value of such property as of the date of the filing of the petition without deduction for costs of sale or marketing. With respect to property acquired for personal, family, or household purposes, 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.''.

SEC. 328. DEFAULTS BASED ON NONMONETARY OBLIGATIONS.

(a) EXECUTORY CONTRACTS AND UNEXPIRED LEASES.—Section 365 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A), by striking the semicolon at the end and inserting the following: ''other than a default that is a breach of a provision relating to the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an unexpired lease of real property, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption, except that if such default arises from a failure to operate in accordance with a nonresidential real property lease, then such default shall be cured by performance at and after the time of assumption in accordance with such lease, and pecuniary losses resulting from such default shall be compensated in accordance with the provisions of this paragraph;''; and

(B) in paragraph (2)(D), by striking ''penalty rate or provision'' and inserting ''penalty rate or penalty provision'';

(2) in subsection (c)—

(A) in paragraph (2), by inserting ''or'' at the end;

(B) in paragraph (3), by striking ''; or'' at the end and inserting a period; and

(C) by striking paragraph (4);

(3) in subsection (d)—

(A) by striking paragraphs (5) through (9); and

(B) by redesignating paragraph (10) as paragraph (5); and

(4) in subsection (f)(1) by striking ''; except that'' and all that follows through the end of the paragraph and inserting a period.

(b) IMPAIRMENT OF CLAIMS OR INTERESTS.—Section 1124(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by inserting ''or of a kind that section 365(b)(2) expressly does not require to be cured'' before the semicolon at the end;

(2) in subparagraph (C), by striking ''and'' at the end;

(3) by redesignating subparagraph (D) as subparagraph (E); and

(4) by inserting after subparagraph (C) the following:

''(D) if such claim or such interest arises from any failure to perform a nonmonetary obligation, other than a default arising from failure to operate a nonresidential real property lease subject to section 365(b)(1)(A), compensates the holder of such claim or such interest (other than the debtor or an insider) for any actual pecuniary loss incurred by such holder as a result of such failure; and''.

SEC. 329. CLARIFICATION OF POSTPETITION WAGES AND BENEFITS.

Section 503(b)(1)(A) of title 11, United States Code, is amended to read as follows:

''(A) the actual, necessary costs and expenses of preserving the estate including—

''(i) wages, salaries, and commissions for services rendered after the commencement of the case; and

''(ii) wages and benefits awarded pursuant to a judicial proceeding or a proceeding of the National Labor Relations Board as back pay attributable to any period of time occurring after commencement of the case under this title, as a result of a violation of Federal or State law by the debtor, without regard to the time of the occurrence of unlawful conduct on which such award is based or to whether any services were rendered, if the court determines that payment of wages and benefits by reason of the operation of this clause will not substantially increase the probability of layoff or termination of current employees, or of nonpayment of domestic support obligations, during the case under this title;''.

SEC. 330. DELAY OF DISCHARGE DURING PENDENCY OF CERTAIN PROCEEDINGS.

(a) CHAPTER 7.—Section 727(a) of title 11, United States Code, as amended by section 106, is amended—

(1) in paragraph (10), by striking ''or'' at the end;

(2) in paragraph (11) by striking the period at the end and inserting ''; or''; and

(3) by inserting after paragraph (11) the following:

''(12) the court after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge finds that there is reasonable cause to believe that—

''(A) section 522(q)(1) may be applicable to the debtor; and

''(B) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).''.

(b) CHAPTER 11.—Section 1141(d) of title 11, United States Code, as amended by section 321, is amended by adding at the end the following:

''(C) unless after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge, the court finds that there is no reasonable cause to believe that—

''(i) section 522(q)(1) may be applicable to the debtor; and

''(ii) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).''.

(c) CHAPTER 12.—Section 1228 of title 11, United States Code, is amended—

(1) in subsection (a) by striking ''As'' and inserting ''Subject to subsection (d), as'',

(2) in subsection (b) by striking ''At'' and inserting ''Subject to subsection (d), at'', and

(3) by adding at the end the following:

''(f) The court may not grant a discharge under this chapter unless the court after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge finds that there is no reasonable cause to believe that—

''(1) section 522(q)(1) may be applicable to the debtor; and

''(2) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).''.

(d) CHAPTER 13.—Section 1328 of title 11, United States Code, as amended by section 106, is amended—

(1) in subsection (a) by striking ''As'' and inserting ''Subject to subsection (d), as'',

(2) in subsection (b) by striking ''At'' and inserting ''Subject to subsection (d), at'', and

(3) by adding at the end the following:

''(h) The court may not grant a discharge under this chapter unless the court after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge finds that there is no reasonable cause to believe that—

''(1) section 522(q)(1) may be applicable to the debtor; and

''(2) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).''.

SEC. 331. LIMITATION ON RETENTION BONUSES, SEVERANCE PAY, AND CERTAIN OTHER PAYMENTS.

Section 503 of title 11, United States Code, is amended by adding at the end the following:

''(c) Notwithstanding subsection (b), there shall neither be allowed, nor paid—

''(1) a transfer made to, or an obligation incurred for the benefit of, an insider of the debtor for the purpose of inducing such person to remain with the debtor's business, absent a finding by the court based on evidence in the record that—

''(A) the transfer or obligation is essential to retention of the person because the individual has a bona fide job offer from another business at the same or greater rate of compensation;

''(B) the services provided by the person are essential to the survival of the business; and

''(C) either—

''(i) the amount of the transfer made to, or obligation incurred for the benefit of, the person is not greater than an amount equal to 10 times the amount of the mean transfer or obligation of a similar kind given to nonmanagement employees for any purpose during the calendar year in which the transfer is made or the obligation is incurred; or

''(ii) if no such similar transfers were made to, or obligations were incurred for the benefit of, such nonmanagement employees during such calendar year, the amount of the transfer or obligation is not greater than an amount equal to 25 percent of the amount of any similar transfer or obligation made to or incurred for the benefit of such insider for any purpose during the calendar year before the year in which such transfer is made or obligation is incurred;

''(2) a severance payment to an insider of the debtor, unless—

''(A) the payment is part of a program that is generally applicable to all full-time employees; and

''(B) the amount of the payment is not greater than 10 times the amount of the mean severance pay given to nonmanagement employees during the calendar year in which the payment is made; or

''(3) other transfers or obligations that are outside the ordinary course of business and not justified by the facts and circumstances of the case, including transfers made to, or obligations incurred for the benefit of, officers, managers, or consultants hired after the date of the filing of the petition.''.

SEC. 332. FRAUDULENT INVOLUNTARY BANKRUPTCY.

(a) SHORT TITLE.—This section may be cited as the ''Involuntary Bankruptcy Improvement Act of 2005''.

(b) INVOLUNTARY CASES.—Section 303 of title 11, United States Code, is amended by adding at the end the following:

''(*l*)(1) If—

''(A) the petition under this section is false or contains any materially false, fictitious, or fraudulent statement;

''(B) the debtor is an individual; and

''(C) the court dismisses such petition,

the court, upon the motion of the debtor, shall seal all the records of the court relating to such petition, and all references to such petition.

''(2) If the debtor is an individual and the court dismisses a petition under this section, the court may enter an order prohibiting all consumer reporting agencies (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))) from making any consumer report (as defined in section 603(d) of that Act) that contains any information relating to such petition or to the case commenced by the filing of such petition.

''(3) Upon the expiration of the statute of limitations described in section 3282 of title 18, for a violation of section 152 or 157 of such title, the court, upon the motion of the debtor and for good cause, may expunge any records relating to a petition filed under this section.''.

(c) BANKRUPTCY FRAUD.—Section 157 of title 18, United States Code, is amended by inserting '', including a fraudulent involuntary bankruptcy petition under section 303 of such title'' after ''title 11''.

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Business Bankruptcy Provisions

SEC. 401. ADEQUATE PROTECTION FOR INVESTORS.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (48) the following:

''(48A) 'securities self regulatory organization' means either a securities association registered with the Securities and Exchange Commission under section 15A of the Securities Exchange Act of 1934 or a national securities exchange registered with the Securities and Exchange Commission under section 6 of the Securities Exchange Act of 1934;''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by sections 224, 303, and 311, is amended by inserting after paragraph (24) the following:

''(25) under subsection (a), of—

''(A) the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization's regulatory power;

''(B) the enforcement of an order or decision, other than for monetary sanctions, obtained in an action by such securities self regulatory organization to enforce such organization's regulatory power; or

''(C) any act taken by such securities self regulatory organization to delist, delete, or refuse to permit quotation of any stock that does not meet applicable regulatory requirements;''.

SEC. 402. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following:

''(e) Notwithstanding subsections (a) and (b), the court, on the request of a party in interest and after notice and a hearing, for cause may order that the United States trustee not convene a meeting of creditors or equity security holders if the debtor has filed a plan as to which the debtor solicited acceptances prior to the commencement of the case.''.

SEC. 403. PROTECTION OF REFINANCE OF SECURITY INTEREST.

Subparagraphs (A), (B), and (C) of section 547(e)(2) of title 11, United States Code, are each amended by striking ''10'' each place it appears and inserting ''30''.

SEC. 404. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.

(a) IN GENERAL.—Section 365(d)(4) of title 11, United States Code, is amended to read as follows:

''(4)(A) Subject to subparagraph (B), an unexpired lease of nonresidential real property under which the debtor is the lessee shall be deemed rejected, and the trustee shall immediately surrender that nonresidential real property to the lessor, if the trustee does not assume or reject the unexpired lease by the earlier of—

''(i) the date that is 120 days after the date of the order for relief; or

''(ii) the date of the entry of an order confirming a plan.

''(B)(i) The court may extend the period determined under subparagraph (A), prior to the expiration of the 120-day period, for 90 days on the motion of the trustee or lessor for cause.

''(ii) If the court grants an extension under clause (i), the court may grant a subsequent extension only upon prior written consent of the lessor in each instance.''.

(b) EXCEPTION.—Section 365(f)(1) of title 11, United States Code, is amended by striking ''subsection'' the first place it appears and inserting ''subsections (b) and''.

SEC. 405. CREDITORS AND EQUITY SECURITY HOLDERS COMMITTEES.

(a) APPOINTMENT.—Section 1102(a) of title 11, United States Code, is amended by adding at the end the following:

''(4) 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 3(a)(1) of the Small Business Act), if the court determines that the creditor holds claims (of the kind represented by the committee) the aggregate amount of which, 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;

''(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 redesignating the second subsection (g) (as added by section 222(a) of Public Law 103–394) as subsection (h);

(2) in subsection (h), as so redesignated, by inserting ''and subject to the prior rights of holders of security interests in such goods or the proceeds of such goods'' after ''consent of a creditor''; and

(3) by adding at the end the following:

''(i)(1) Notwithstanding paragraphs (2) and (3) of section 545, the trustee may not avoid a warehouseman's lien for storage, transportation, or other costs incidental to the storage and handling of goods.

''(2) The prohibition under paragraph (1) shall be applied in a manner consistent with any State statute applicable to such lien that is similar to section 7–209 of the Uniform Commercial Code, as in effect on the date of enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, or any successor to such section 7–209.''.

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 commission, based on section 326.''.

SEC. 408. POSTPETITION DISCLOSURE AND SOLICITATION.

Section 1125 of title 11, United States Code, is amended by adding at the end the following:

''(g) Notwithstanding subsection (b), an acceptance or rejection of the plan may be solicited from a holder of a claim or interest if such solicitation complies with applicable nonbankruptcy law and if such holder was solicited before the commencement of the case in a manner complying with applicable nonbankruptcy law.''.

SEC. 409. PREFERENCES.

Section 547(c) of title 11, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

''(2) to the extent that such transfer was in payment of a debt incurred by the debtor in the ordinary course of business or financial affairs of the debtor and the transferee, and such transfer was—

''(A) made in the ordinary course of business or financial affairs of the debtor and the transferee; or

''(B) made according to ordinary business terms;'';

(2) in paragraph (8), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(9) if, in a case filed by a debtor whose debts are not primarily consumer debts, the aggregate value of all property that constitutes or is affected by such transfer is less than $5,000.''.

SEC. 410. VENUE OF CERTAIN PROCEEDINGS.

Section 1409(b) of title 28, United States Code, is amended by inserting '', or a debt (excluding a consumer debt) against a noninsider of less than $10,000,'' after ''$5,000''. Section 1409(b) of title 28, United States Code, is further amended by striking ''$5,000'' and inserting ''$15,000''.

SEC. 411. PERIOD FOR FILING PLAN UNDER CHAPTER 11.

Section 1121(d) of title 11, United States Code, is amended—

(1) by striking ''On'' and inserting ''(1) Subject to paragraph (2), on''; and

(2) by adding at the end the following:

''(2)(A) The 120-day period specified in paragraph (1) may not be extended beyond a date that is 18 months after the date of the order for relief under this chapter.

''(B) The 180-day period specified in paragraph (1) may not be extended beyond a date that is 20 months after the date of the order for relief under this chapter.''.

SEC. 412. FEES ARISING FROM CERTAIN OWNERSHIP INTERESTS.

Section 523(a)(16) of title 11, United States Code, is amended—

(1) by striking ''dwelling'' the first place it appears;

(2) by striking ''ownership or'' and inserting ''ownership,'';

(3) by striking ''housing'' the first place it appears; and

(4) by striking ''but only'' and all that follows through ''such period,'' and inserting ''or a lot in a homeowners association, for as long as the debtor or the trustee has a legal, equitable, or possessory ownership interest in such unit, such corporation, or such lot,''.

SEC. 413. CREDITOR REPRESENTATION AT FIRST MEETING OF CREDITORS.

Section 341(c) of title 11, United States Code, is amended by inserting at the end the following: ''Notwithstanding any local court rule, provision of a State constitution, any otherwise applicable nonbankruptcy law, or any other requirement that representation at the meeting of creditors under subsection (a) be by an attorney, a creditor holding a consumer debt or any representative of the creditor (which may include an entity or an employee of an entity and may be a representative for more than 1 creditor) shall be permitted to appear at and participate in the meeting of creditors in a case under chapter 7 or 13, either alone or in conjunction with an attorney for the creditor. Nothing in this subsection shall be construed to require any creditor to be represented by an attorney at any meeting of creditors.''.

SEC. 414. DEFINITION OF DISINTERESTED PERSON.

Section 101(14) of title 11, United States Code, is amended to read as follows:

''(14) 'disinterested person' means a person that—

''(A) is not a creditor, an equity security holder, or an insider;

''(B) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor; and

''(C) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason;''.

SEC. 415. FACTORS FOR COMPENSATION OF PROFESSIONAL PERSONS.

Section 330(a)(3) of title 11, United States Code, is amended—

(1) in subparagraph (D), by striking ''and'' at the end;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following:

''(E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and''.

SEC. 416. APPOINTMENT OF ELECTED TRUSTEE.

Section 1104(b) of title 11, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)''; and

(2) by adding at the end the following:

''(2)(A) If an eligible, disinterested trustee is elected at a meeting of creditors under paragraph (1), the United States trustee shall file a report certifying that election.

''(B) Upon the filing of a report under subparagraph (A)—

''(i) the trustee elected under paragraph (1) shall be considered to have been selected and appointed for purposes of this section; and

''(ii) the service of any trustee appointed under subsection (d) shall terminate.

''(C) The court shall resolve any dispute arising out of an election described in subparagraph (A).''.

SEC. 417. UTILITY SERVICE.

Section 366 of title 11, United States Code, is amended—

(1) in subsection (a), by striking ''subsection (b)'' and inserting ''subsections (b) and (c)''; and

(2) by adding at the end the following:

''(c)(1)(A) For purposes of this subsection, the term 'assurance of payment' means—

''(i) a cash deposit;

''(ii) a letter of credit;

''(iii) a certificate of deposit;

''(iv) a surety bond;

''(v) a prepayment of utility consumption; or

''(vi) another form of security that is mutually agreed on between the utility and the debtor or the trustee.

''(B) For purposes of this subsection an administrative expense priority shall not constitute an assurance of payment.

''(2) Subject to paragraphs (3) and (4), with respect to a case filed under chapter 11, a utility referred to in subsection (a) may alter, refuse, or discontinue utility service, if during the 30-day period beginning on the date of the filing of the petition, the utility does not receive from the debtor or the trustee adequate assurance of payment for utility service that is satisfactory to the utility.

''(3)(A) On request of a party in interest and after notice and a hearing, the court may order modification of the amount of an assurance of payment under paragraph (2).

''(B) In making a determination under this paragraph whether an assurance of payment is adequate, the court may not consider—

''(i) the absence of security before the date of the filing of the petition;

''(ii) the payment by the debtor of charges for utility service in a timely manner before the date of the filing of the petition; or

''(iii) the availability of an administrative expense priority.

''(4) Notwithstanding any other provision of law, with respect to a case subject to this subsection, a utility may recover or set off against a security deposit provided to the utility by the debtor before the date of the 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 1915 of this title, the'' and inserting ''The''; and

(2) by adding at the end the following:

''(f)(1) Under the procedures prescribed by the Judicial Conference of the United States, the district court or the bankruptcy court may waive the filing fee in a case under chapter 7 of title 11 for an individual if the court determines that such individual has income less than 150 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved and is unable to pay that fee in installments. For purposes of this paragraph, the term 'filing fee' means the filing fee required by subsection (a), or any other fee prescribed by the Judicial Conference under subsections (b) and (c) that is payable to the clerk upon the commencement of a case under chapter 7.

''(2) The district court or the bankruptcy court may waive for such debtors other fees prescribed under 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.—

(1) DISCLOSURE.—The Judicial Conference of the United States, in accordance with section 2075 of title 28 of the United States Code and after consideration of the views of the Director of the Executive Office for United States Trustees, shall propose amended Federal Rules of Bankruptcy Procedure and in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure shall prescribe official bankruptcy forms directing debtors under chapter 11 of title 11 of United States Code, to disclose the information described in paragraph (2) by filing and serving periodic financial and other reports designed to provide such information.

(2) INFORMATION.—The information referred to in paragraph (1) is the value, operations, and 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 taking steps to ensure that the debtor's interest in any entity referred to in subsection (a)(2) is used for the payment of allowed claims against debtor.

Subtitle B—Small Business Bankruptcy Provisions

SEC. 431. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.

Section 1125 of title 11, United States Code, is amended—

(1) in subsection (a)(1), by inserting before the semicolon ''and in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information''; and

(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)(A) the court may conditionally approve a disclosure statement subject to final approval after notice and a hearing;

''(B) acceptances and rejections of a plan may be solicited based on a conditionally approved disclosure statement if the debtor provides adequate information to each holder of a claim or interest that is solicited, but a conditionally approved disclosure statement shall be mailed not later than 25 days before the date of the hearing on confirmation of the plan; and

''(C) the hearing on the disclosure statement may be combined with the hearing on confirmation of a plan.''.

SEC. 432. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraph (51C) and inserting the following:

''(51C) 'small business case' means a case filed under chapter 11 of this title in which the debtor is a small business debtor;

''(51D) 'small business debtor'—

''(A) subject to subparagraph (B), means a person engaged in commercial or business activities (including any affiliate of such person that is also a debtor under this title and excluding a person whose primary activity is the business of owning or operating real property or activities incidental thereto) that has aggregate noncontingent liquidated secured and unsecured debts as of the date of the petition or the date of the order for relief in an amount not more than $2,000,000 (excluding debts owed to 1 or more affiliates or insiders) for a case in which the United States trustee has not appointed under section 1102(a)(1) a committee of unsecured creditors or where the court has determined that the committee of unsecured creditors is not sufficiently active and representative to provide effective oversight of the debtor; and

''(B) does not include any member of a group of affiliated debtors that has aggregate noncontingent liquidated secured and unsecured debts in an amount greater than $2,000,000 (excluding debt owed to 1 or more affiliates or insiders);''.

(b) CONFORMING AMENDMENT.—Section 1102(a)(3) of title 11, United States Code, is amended by inserting ''debtor'' after ''small business''.

(c) ADJUSTMENT OF DOLLAR AMOUNTS.—Section 104(b) of title 11, United States Code, as amended by section 226, is amended by inserting ''101(51D),'' after ''101(3),'' each place it appears.

SEC. 433. STANDARD FORM DISCLOSURE STATEMENT AND PLAN.

Within a reasonable period of time after the date of enactment of this Act, the Judicial Conference of the United States shall prescribe in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure official 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 307 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;

''(3) comparisons 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 postpetition 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 expenses when due;

''(B) if the debtor is not in compliance with the requirements referred to in subparagraph (A)(i) or filing tax returns and other required government filings and making the payments referred to in subparagraph (A)(ii), what the failures are and how, at what cost, and 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 for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 307 the following:

''308. Debtor reporting requirements.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 60 days after the date on which rules are prescribed under section 2075 of title 28, United States Code, to establish forms to be used to comply with section 308 of title 11, United States Code, as added by subsection (a).

SEC. 435. UNIFORM REPORTING RULES AND FORMS FOR SMALL BUSINESS CASES.

(a) PROPOSAL OF RULES AND FORMS.—The Judicial Conference of the United States shall propose in accordance with section 2073 of title 28 of the United States Code amended Federal Rules of Bankruptcy Procedure, and shall prescribe in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure official bankruptcy forms, directing 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 expenses 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) a 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 such debtor to understand such debtor's financial condition and plan the such debtor's future.

SEC. 436. DUTIES IN SMALL BUSINESS CASES.

(a) DUTIES IN CHAPTER 11 CASES.—Subchapter I of chapter 11 of title 11, United States Code, as amended by section 321, is amended by adding at the end the following:

''§ 1116. Duties of trustee or debtor in possession in small business cases

''In a small business case, a trustee or the debtor in possession, in addition to the duties provided in this title and as otherwise required by law, shall—

''(1) append to the voluntary petition or, in an involuntary case, file not later than 7 days after the date of the order for relief—

''(A) its most recent balance sheet, statement of operations, cash-flow statement, and Federal income tax return; or

''(B) a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed;

''(2) attend, through its senior management personnel and counsel, meetings scheduled by the court or the United States trustee, including initial debtor interviews, scheduling conferences, and meetings of creditors convened under section 341 unless the court, after notice and a hearing, waives that requirement upon a finding of extraordinary and compelling circumstances;

''(3) timely file all schedules and statements of financial affairs, unless the court, after notice and a hearing, grants an extension, which shall not extend such time period to a date later than 30 days after the date of the order for relief, absent extraordinary and compelling circumstances;

''(4) file all postpetition financial and other reports required by the Federal Rules of Bankruptcy Procedure or by local rule of the district court;

''(5) subject to section 363(c)(2), maintain insurance customary and appropriate to the industry;

''(6)(A) timely file tax returns and other required government filings; and

''(B) subject to section 363(c)(2), timely pay all taxes entitled to administrative expense priority except those being contested by appropriate proceedings being diligently prosecuted; and

''(7) allow the United States trustee, or a designated representative of the United States trustee, to inspect the debtor's business premises, books, and records at reasonable times, after reasonable prior written notice, unless notice is waived by the debtor.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 11, United States Code, as amended by section 321, is amended by inserting after the item relating to section 1115 the following:

''1116. Duties of trustee or debtor in possession in small business cases.''.

SEC. 437. PLAN FILING AND CONFIRMATION DEADLINES.

Section 1121 of title 11, United States Code, is amended by striking subsection (e) and inserting the following:

''(e) In a small business case—

''(1) only the debtor may file a plan until after 180 days after the date of the order for relief, unless that period is—

''(A) extended as provided by this subsection, after notice and a hearing; or

''(B) the court, for cause, orders otherwise;

''(2) the plan and a disclosure statement (if any) 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:

''(e) In a small business case, the court shall confirm a plan that complies with the applicable provisions of this title and that is filed in accordance with section 1121(e) not later than 45 days after the plan is filed unless the time for confirmation is extended in accordance with section 1121(e)(3).''.

SEC. 439. DUTIES OF THE UNITED STATES TRUSTEE.

Section 586(a) of title 28, United States Code, is amended—

(1) in paragraph (3)—

(A) in subparagraph (G), by striking ''and'' at the end;

(B) by redesignating subparagraph (H) as subparagraph (I); and

(C) by inserting after subparagraph (G) the following:

''(H) in small business cases (as defined in section 101 of title 11), performing the additional duties specified in title 11 pertaining to such cases; 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:

''(7) in each of such small business cases—

''(A) conduct an initial debtor interview as soon as practicable after the date of the order for relief but before the first meeting scheduled under section 341(a) of title 11, at which time the United States trustee shall—

''(i) begin to investigate the debtor's viability;

''(ii) inquire about the debtor's business plan;

''(iii) explain the debtor's obligations to file monthly operating reports and other required reports;

''(iv) attempt to develop an agreed scheduling order; and

''(v) inform the debtor of other obligations;

''(B) if determined to be appropriate and advisable, visit the appropriate business premises of the debtor, ascertain the state of the debtor's books and records, and verify that the debtor has filed its tax returns; and

''(C) review and monitor diligently the debtor's activities, to identify as promptly as possible whether the debtor will be unable to confirm a plan; and

''(8) in any case in which the United States trustee finds material grounds for any relief under section 1112 of title 11, the United States trustee shall apply promptly after making that finding to the court for relief.''.

SEC. 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''.

SEC. 441. SERIAL FILER PROVISIONS.

Section 362 of title 11, United States Code, as amended by sections 106, 305, and 311, is amended—

(1) in subsection (k), as so redesignated by section 305—

(A) by striking ''An'' and inserting ''(1) Except as provided in paragraph (2), an''; and

(B) by adding at the end the following:

''(2) If such violation is based on an action taken by an entity in the good faith belief that subsection (h) applies to the debtor, the recovery under paragraph (1) of this subsection against such entity shall be limited to actual damages.''; and

(2) by adding at the end the following:

''(n)(1) Except as provided in paragraph (2), subsection (a) does not apply in a case in which the debtor—

''(A) is a debtor in a small business case pending at the time the petition is filed;

''(B) was a debtor in a small business case that was dismissed for any reason by an order that became final in the 2-year period ending on the date of the order for relief entered with respect to the petition;

''(C) was a debtor in a small business case in which a plan was confirmed in the 2-year

period ending on the date of the order for relief entered with respect to the petition; or

''(D) is an entity that has acquired substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C), unless such entity establishes by a preponderance of the evidence that such entity acquired substantially all of the assets or business of such small business debtor in good faith and not for the purpose of evading this paragraph.

''(2) Paragraph (1) does not apply—

''(A) to an involuntary case involving no collusion by the debtor with creditors; or

''(B) to the filing of a petition if—

''(i) the debtor proves by a preponderance of the evidence that the filing of the petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and

''(ii) it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable period of time.''.

SEC. 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 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 1104(a)(3), on request of a party in interest, and after notice and a hearing, absent unusual circumstances specifically identified by the court that establish that the requested conversion or dismissal is not in the best interests of creditors and the estate, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, if the movant establishes cause.

''(2) The relief provided in paragraph (1) shall not be granted absent unusual circumstances specifically identified by the court that establish that such relief is not in the best interests of creditors and the estate, if the debtor or another party in interest objects and establishes that—

''(A) there is a reasonable likelihood that a plan will be confirmed within the timeframes established in sections 1121(e) and 1129(e) of this title, or if such sections do not apply, within a reasonable period of time; and

''(B) the grounds for granting such relief include an act or omission of the debtor other than under paragraph (4)(A)—

''(i) for which there exists a reasonable justification for the act or omission; and

''(ii) that will be cured within a reasonable period of time fixed by the court.

''(3) The court shall commence the hearing on a motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion not later than 15 days after commencement of such hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.

''(4) For purposes of this subsection, the term 'cause' includes—

''(A) substantial or continuing loss to or diminution of the estate and the absence of a reasonable likelihood of rehabilitation;

''(B) gross mismanagement of the estate;

''(C) failure to maintain appropriate insurance that poses a risk to the estate or to the public;

''(D) unauthorized use of cash collateral substantially harmful to 1 or more creditors;

''(E) failure to comply with an order of the court;

''(F) unexcused failure to satisfy timely any filing or reporting requirement established by this title or by any rule applicable to a case under this chapter;

''(G) failure to attend the meeting of creditors convened under section 341(a) or an examination ordered under rule 2004 of the Federal Rules of Bankruptcy Procedure without good cause shown by the debtor;

''(H) failure timely to provide information or attend meetings reasonably requested by the United States trustee (or the bankruptcy administrator, if any);

''(I) failure timely to pay taxes owed after the date of the order for relief or to file tax returns due after the date of the order for relief;

''(J) failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by this title or by order of the court;

''(K) failure to pay any fees or charges required under chapter 123 of title 28;

''(L) revocation of an order of confirmation under section 1144;

''(M) inability to effectuate substantial consummation of a confirmed plan;

''(N) material default by the debtor with respect to a confirmed plan;

''(O) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan; and

''(P) failure of the debtor to pay any domestic support obligation that first becomes payable after the date of the filing of the petition.''.

(b) ADDITIONAL GROUNDS FOR APPOINTMENT OF TRUSTEE.—Section 1104(a) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking ''or'' at the end;

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

(3) by adding at the end the following:

''(3) if grounds exist to convert or dismiss the case under section 1112, but the court determines that the appointment of a trustee 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 Executive Office for United States Trustees, and the Director of the Administrative Office of the United States Courts, shall—

(1) conduct a study to determine—

(A) the internal and external factors that cause small businesses, especially sole proprietorships, to become debtors in cases under title 11, United States Code, and that cause certain small businesses to successfully complete cases under chapter 11 of such title; and

(B) how Federal laws relating to bankruptcy may be made more effective and efficient in assisting small businesses to remain viable; and

(2) submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report summarizing that study.

SEC. 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, on, or after the date of the commencement of the case by or from the property to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien); and

''(ii) are in an amount equal to interest at the then applicable nondefault contract rate of interest on the value of the creditor's interest in the real estate; or''.

SEC. 445. PRIORITY FOR ADMINISTRATIVE EXPENSES.

Section 503(b) of title 11, United States Code, is amended—

(1) in paragraph (5), by striking ''and'' at the end;

(2) in paragraph (6), by striking the period at the end and inserting 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 a penalty provision, for the period of 2 years following the later of the rejection date or the 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 an entity other than the debtor, 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);''.

SEC. 446. DUTIES WITH RESPECT TO A DEBTOR WHO IS A PLAN ADMINISTRATOR OF AN EMPLOYEE BENEFIT PLAN.

(a) IN GENERAL.—Section 521(a) of title 11, United States Code, as amended by sections 106 and 304, is amended—

(1) in paragraph (5), by striking ''and'' at the end;

(2) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(3) by adding after paragraph (6) the following:

''(7) unless a trustee is serving in the case, continue to perform the obligations required of the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974) of an employee benefit plan if at the time of the commencement of the case the debtor (or any entity designated by the debtor) served as such administrator.''.

(b) DUTIES OF TRUSTEES.—Section 704(a) of title 11, United States Code, as amended by sections 102 and 219, is amended—

(1) in paragraph (10), by striking ''and'' at the end; and

(2) by adding at the end the following:

''(11) if, at the time of the commencement of the case, the debtor (or any entity designated by the debtor) served as the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974) of an employee benefit plan, continue to perform the obligations required of the administrator; and''.

(c) CONFORMING AMENDMENT.—Section 1106(a)(1) of title 11, United States Code, is amended to read as follows:

''(1) perform the duties of the trustee, as specified in paragraphs (2), (5), (7), (8), (9), (10), and (11) of section 704;''.

SEC. 447. APPOINTMENT OF COMMITTEE OF RETIRED EMPLOYEES.

Section 1114(d) of title 11, United States Code, is amended—

(1) by striking ''appoint'' and inserting ''order the appointment of'', and

(2) by adding at the end the following: ''The United States trustee shall appoint any such committee.''.

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

SEC. 501. PETITION AND PROCEEDINGS RELATED TO PETITION.

(a) TECHNICAL AMENDMENT RELATING TO MUNICIPALITIES.—Section 921(d) of title 11, United States Code, is amended by inserting ''notwithstanding section 301(b)'' before the period at the end.

(b) CONFORMING AMENDMENT.—Section 301 of title 11, United States Code, is amended—

(1) by inserting ''(a)'' before ''A voluntary''; and

(2) by striking the last sentence and inserting the following:

''(b) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.''.

SEC. 502. APPLICABILITY OF OTHER SECTIONS TO CHAPTER 9.

Section 901(a) of title 11, United States Code, is amended—

(1) by inserting ''555, 556,'' after ''553,''; and

(2) by inserting ''559, 560, 561, 562,'' after ''557,''.

TITLE VI—BANKRUPTCY DATA

SEC. 601. IMPROVED BANKRUPTCY STATISTICS.

(a) IN GENERAL.—apter 6 of title 28, United States Code, is amended by adding at the end the following:

''§ 159. Bankruptcy statistics

''(a) The clerk of the district court, or the clerk of the bankruptcy court if one is certified pursuant to section 156(b) of this title, shall collect statistics regarding debtors who are individuals with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be in a standardized format 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 July 1, 2008, 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 debtors;

''(B) the current monthly income, average income, and average expenses of 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 cases filed during 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 date of the filing of the petition and the closing of the case for cases closed during the reporting period;

''(E) for cases closed during the reporting period—

''(i) the number of cases in which a reaffirmation agreement was filed; and

''(ii)(I) the total number of reaffirmation agreements filed;

''(II) of those cases in which a reaffirmation agreement 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 agreement was filed, the number of cases in which the reaffirmation agreement was approved by the court;

''(F) with respect to cases filed under chapter 13 of title 11, for the reporting period—

''(i)(I) the number of cases in which a final order was entered determining the value of property securing a claim in an amount less than the amount of the claim; and

''(II) the number of final orders entered determining the value of property securing a claim;

''(ii) the number of cases dismissed, the number of cases dismissed for failure to make payments under the plan, the number of cases refiled after dismissal, and the number of cases in which the plan was completed, separately itemized with respect to the number of modifications made before completion of the plan, if any; and

''(iii) the number of cases in which the debtor filed another case during the 6-year period preceding the filing;

''(G) the number of cases in which creditors were fined for misconduct and any amount of punitive damages awarded by the court for creditor misconduct; and

''(H) the number of cases in which sanctions under rule 9011 of the Federal Rules of Bankruptcy Procedure were imposed against debtor's attorney or damages awarded under such Rule.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 6 of title 28, United States Code, is amended by adding at the end the following:

''159. Bankruptcy statistics.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 602. UNIFORM RULES FOR THE COLLECTION OF BANKRUPTCY DATA.

(a) AMENDMENT.—Chapter 39 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 in cases under chapter 11 of title 11.

''(b) REPORTS.—Each report referred to in subsection (a) shall be designed (and the requirements as to place and manner of filing shall be established) so as to facilitate compilation of data and maximum possible access of the public, both by physical inspection at one or more central filing locations, and by electronic access through the Internet or other appropriate media.

''(c) REQUIRED INFORMATION.—The information required to be filed in the reports referred to in subsection (b) shall be that which is in the best interests of debtors and creditors, and in the public interest in reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system. In issuing rules proposing the forms referred to in subsection (a), the Attorney General shall strike the best achievable practical balance between—

''(1) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system;

''(2) economy, simplicity, and lack of undue burden on persons with a duty to file reports; and

''(3) appropriate privacy concerns and safeguards.

''(d) FINAL REPORTS.—The uniform forms for final reports required under subsection (a) for use by trustees under chapters 7, 12, and 13 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General shall propose, include with respect to a case under such title—

''(1) information about the length of time the case was pending;

''(2) assets abandoned;

''(3) assets exempted;

''(4) receipts and disbursements of the estate;

''(5) expenses of administration, including for use under section 707(b), actual costs of administering cases under chapter 13 of title 11;

''(6) claims asserted;

''(7) claims allowed; and

''(8) distributions to claimants and claims discharged without payment,

in each case by appropriate category and, in cases under chapters 12 and 13 of title 11, date of confirmation of the plan, each modification thereto, and defaults by the debtor in performance under the plan.

''(e) PERIODIC REPORTS.—The uniform forms for periodic reports required under subsection (a) for use by trustees or debtors in possession under chapter 11 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General shall propose, include—

''(1) information about the 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 of 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 for the most recent period and cumulatively since the date of the order for relief (separately reported, for the professional fees incurred by or on behalf of the debtor, between those that would have been incurred absent a bankruptcy case and those 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.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 39 of title 28, United States Code, is amended by adding at the end the following:

''589b. Bankruptcy data.''.

SEC. 603. AUDIT PROCEDURES.

(a) IN GENERAL.—

(1) ESTABLISHMENT OF PROCEDURES.—The Attorney General (in judicial districts served by United States trustees) and the Judicial Conference of the United States (in judicial districts served by bankruptcy administrators) shall establish procedures to determine the accuracy, veracity, and completeness of petitions, schedules, and other information

that the debtor is required to provide under sections 521 and 1322 of title 11, United States Code, and, if applicable, section 111 of such title, in cases filed under chapter 7 or 13 of such title in which the debtor is an individual. Such audits shall be in accordance with generally accepted auditing standards and performed by independent certified public accountants or independent licensed public accountants, provided that the Attorney General and the Judicial Conference, as appropriate, may develop alternative auditing standards not later than 2 years after the date of enactment of this Act.

(2) PROCEDURES.—Those procedures required by paragraph (1) shall—

(A) establish a method of selecting appropriate qualified persons to contract to perform those audits;

(B) establish a method of randomly selecting cases to be audited, except that not less than 1 out of every 250 cases in each Federal judicial district shall be selected for audit;

(C) require audits of schedules of income and expenses that reflect greater than average variances from the statistical norm of the district in which the schedules were filed if those variances occur by reason of higher income or higher expenses than the statistical norm of the district in which the schedules were filed; and

(D) establish procedures for providing, not less frequently than annually, public information concerning the aggregate results of such audits including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported.

(b) AMENDMENTS.—Section 586 of title 28, United States Code, is amended—

(1) in subsection (a), by striking paragraph (6) and inserting the following:

''(6) make such reports as the Attorney General directs, including the results of audits performed under section 603(a) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005;''; and

(2) by adding at the end the following:

''(f)(1) The United States trustee for each district is authorized to contract with auditors to perform audits in cases designated by the United States trustee, in accordance with the procedures established under section 603(a) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

''(2)(A) The report of each audit referred to in paragraph (1) shall be filed with the court and transmitted to the United States trustee. Each report shall clearly and conspicuously specify any material misstatement of income or expenditures or of assets identified by the person performing the audit. In any case in which a material misstatement of income or expenditures or of assets has been reported, the clerk of the district court (or the clerk of the bankruptcy court if one is certified under section 156(b) of this title) shall give notice of the misstatement to the creditors in the case.

''(B) If a material misstatement of income or expenditures or of assets is reported, the United States trustee shall—

''(i) report the material misstatement, if appropriate, to the United States Attorney pursuant to section 3057 of title 18; and

''(ii) if advisable, take appropriate action, including but not limited to commencing an adversary proceeding to revoke the debtor's discharge pursuant to section 727(d) of title 11.''.

(c) AMENDMENTS TO SECTION 521 OF TITLE 11, U.S.C.—Section 521(a) of title 11, United States Code, as so designated by section 106, is amended in each of paragraphs (3) and (4) by inserting ''or an auditor serving under section 586(f) of title 28'' after ''serving in the case''.

(d) AMENDMENTS TO SECTION 727 OF TITLE 11, U.S.C.—Section 727(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking ''or'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(4) the debtor has failed to explain satisfactorily—

''(A) a material misstatement in an audit referred to in section 586(f) of title 28; or

''(B) a failure to make available for inspection all necessary accounts, papers, documents, financial records, files, and all other papers, things, or property belonging to the debtor that are requested for an audit referred to in section 586(f) of title 28.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 604. SENSE OF CONGRESS REGARDING AVAILABILITY OF BANKRUPTCY DATA.

It is the sense of Congress that—

(1) the national policy of the United States should be that all data held by bankruptcy clerks in electronic form, to the extent such data reflects only public records (as defined in section 107 of title 11, United States Code), should be released in a usable electronic form in bulk to the public, subject to such appropriate privacy concerns and safeguards as Congress 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 forms are used to collect data nationwide; and

(B) data for any particular bankruptcy case are aggregated in the same electronic record.

TITLE VII—BANKRUPTCY TAX PROVISIONS

SEC. 701. TREATMENT OF CERTAIN LIENS.

(a) TREATMENT OF CERTAIN LIENS.—Section 724 of title 11, United States Code, is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by inserting ''(other than to the extent that there is a properly perfected unavoidable tax lien arising in connection with an ad valorem tax on real or personal property of the estate)'' after ''under this title'';

(2) in subsection (b)(2), by inserting ''(except that such expenses, other than claims for wages, salaries, or commissions that arise after the date of the filing of the petition, shall be limited to expenses incurred under chapter 7 of this title and shall not include expenses incurred under chapter 11 of this title)'' after ''507(a)(1)''; and

(3) by adding at the end the following:

''(e) Before subordinating a tax lien on real or personal property of the estate, the trustee shall—

''(1) exhaust the unencumbered assets of the estate; and

''(2) in a manner consistent with section 506(c), recover from property securing an allowed secured claim the reasonable, necessary costs and expenses of preserving or disposing of such property.

''(f) Notwithstanding the exclusion of ad valorem tax liens under this section and subject to the requirements of subsection (e), the following may be paid from property of the estate which secures a tax lien, or the proceeds of such property:

''(1) Claims for wages, salaries, and commissions that are entitled to priority under section 507(a)(4).

''(2) Claims for contributions to an employee benefit plan entitled to priority under section 507(a)(5).''.

(b) DETERMINATION OF TAX LIABILITY.—Section 505(a)(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking ''or'' at the end;

(2) in subparagraph (B), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(C) the amount or legality of any amount arising in connection with an ad valorem tax on real or personal property of the estate, if the applicable period for contesting or redetermining that amount under any law (other than a bankruptcy law) has expired.''.

SEC. 702. TREATMENT OF FUEL TAX CLAIMS.

Section 501 of title 11, United States Code, is amended by adding at the end the following:

''(e) A claim arising from the liability of a debtor for fuel use tax assessed consistent with the requirements of section 31705 of title 49 may be filed by the base jurisdiction designated pursuant to the International Fuel Tax Agreement (as defined in section 31701 of title 49) and, if so filed, shall be allowed as a single claim.''.

SEC. 703. NOTICE OF REQUEST FOR A DETERMINATION OF TAXES.

Section 505(b) of title 11, United States Code, is amended—

(1) in the first sentence, by inserting ''at the address and in the manner designated in paragraph (1)'' after ''determination of such tax'';

(2) by striking ''(1) upon payment'' and inserting ''(A) upon payment'';

(3) by striking ''(A) such governmental unit'' and inserting ''(i) such governmental unit'';

(4) by striking ''(B) such governmental unit'' and inserting ''(ii) such governmental unit'';

(5) by striking ''(2) upon payment'' and inserting ''(B) upon payment'';

(6) by striking ''(3) upon payment'' and inserting ''(C) upon payment'';

(7) by striking ''(b)'' and inserting ''(2)''; and

(8) by inserting before paragraph (2), as so designated, the following:

''(b)(1)(A) The clerk shall maintain a list under which a Federal, State, or local governmental unit responsible for the collection of taxes within the district may—

''(i) designate an address for service of requests under this subsection; and

''(ii) describe where further information concerning additional requirements for filing such requests may be found.

''(B) If such governmental unit does not designate an address and provide such address to the clerk under subparagraph (A), any request made under this subsection may be served at the address for the filing of a tax return or protest with the appropriate taxing authority of such governmental unit.''.

SEC. 704. RATE OF INTEREST ON TAX CLAIMS.

(a) IN GENERAL.—Subchapter I of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

''§ 511. Rate of interest on tax claims

''(a) If any provision of this title requires the payment of interest on a tax claim or on an administrative expense tax, or the payment of interest to enable a creditor to receive the present value of the allowed amount of a tax claim, the rate of interest shall be the rate determined under applicable nonbankruptcy law.

''(b) In the case of taxes paid under a confirmed plan under this title, the rate of interest shall be determined as of the calendar month in which the plan is confirmed.''.

(b) CLERICAL AMENDMENT.—The table of sections for 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.''.

SEC. 705. PRIORITY OF TAX CLAIMS.

Section 507(a)(8) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by inserting ''for a taxable year ending on or before the date of the filing of the petition'' after ''gross receipts'';

(B) in clause (i), by striking ''for a taxable year ending on or before the date of the filing of the petition''; and

(C) by striking clause (ii) and inserting the following:

''(ii) assessed within 240 days before the date of the filing of the petition, exclusive of—

''(I) any time during which an offer in compromise with respect to that tax was pending or in effect during that 240-day period, plus 30 days; and

''(II) any time during which a stay of proceedings against collections was in effect in a prior case under this title during that 240-day period, plus 90 days.''; and

(2) by adding at the end the following:

''An otherwise applicable time period specified in this paragraph shall be suspended for any period during which a governmental unit is prohibited under applicable nonbankruptcy law from collecting a tax as a result of a request by the debtor for a hearing and an appeal of any collection action taken or proposed against the debtor, plus 90 days; plus any time during which the stay of proceedings was in effect in a prior case under this title or during which collection was precluded by the existence of 1 or more confirmed plans under this title, plus 90 days.''.

SEC. 706. PRIORITY PROPERTY TAXES INCURRED.

Section 507(a)(8)(B) of title 11, United States Code, is amended by striking ''assessed'' and inserting ''incurred''.

SEC. 707. NO DISCHARGE OF FRAUDULENT TAXES IN CHAPTER 13.

Section 1328(a)(2) of title 11, United States Code, as amended by section 314, is amended by striking ''paragraph'' and inserting ''section 507(a)(8)(C) or in paragraph (1)(B), (1)(C),''.

SEC. 708. NO DISCHARGE OF FRAUDULENT TAXES IN CHAPTER 11.

Section 1141(d) of title 11, United States Code, as amended by sections 321 and 330, is amended by adding at the end the following:

''(6) Notwithstanding paragraph (1), the confirmation of a plan does not discharge a debtor that is a corporation from any debt—

''(A) of a kind specified in paragraph (2)(A) or (2)(B) of section 523(a) that is owed to a domestic governmental unit, or owed to a person as the result of an action filed under subchapter III of chapter 37 of title 31 or any similar State statute; or

''(B) for a tax or customs duty with respect to which the debtor—

''(i) made a fraudulent return; or

''(ii) willfully attempted in any manner to evade or to defeat such tax or such customs duty.''.

SEC. 709. STAY OF TAX PROCEEDINGS LIMITED TO PREPETITION TAXES.

Section 362(a)(8) of title 11, United States Code, is amended by striking ''the debtor'' and inserting ''a corporate debtor's tax liability for a taxable period the bankruptcy court may determine or concerning the tax liability of a debtor who is an individual for a taxable period ending before the date of the order for relief under this title''.

SEC. 710. PERIODIC PAYMENT OF TAXES IN CHAPTER 11 CASES.

Section 1129(a)(9) of title 11, United States Code, is amended—

(1) in subparagraph (B), by striking ''and'' at the end;

(2) in subparagraph (C), by striking ''deferred cash payments,'' and all that follows through the end of the subparagraph, and inserting ''regular installment payments in cash—

''(i) of a total value, as of the effective date of the plan, equal to the allowed amount of such claim;

''(ii) over a period ending not later than 5 years after the date of the order for relief under section 301, 302, or 303; and

''(iii) in a manner not less favorable than the most favored nonpriority unsecured claim provided for by the plan (other than cash payments made to a class of creditors under section 1122(b)); and''; and

(3) by adding at the end the following:

''(D) with respect to a secured claim which would otherwise meet the description of an unsecured claim of a governmental unit under section 507(a)(8), but for the secured status of that claim, the holder of that claim will receive on account of that claim, cash payments, in the same manner and over the same period, as prescribed in subparagraph (C).''.

SEC. 711. AVOIDANCE OF STATUTORY TAX LIENS PROHIBITED.

Section 545(2) of title 11, United States Code, is amended by inserting before the semicolon at the end the following: '', except in any case in which a purchaser is a purchaser described in section 6323 of the Internal Revenue Code of 1986, or in any other similar provision of State or local law''.

SEC. 712. PAYMENT OF TAXES IN THE CONDUCT OF BUSINESS.

(a) PAYMENT OF TAXES REQUIRED.—Section 960 of title 28, United States Code, is amended—

(1) by inserting ''(a)'' before ''Any''; and

(2) by adding at the end the following:

''(b) A tax under subsection (a) shall be paid on or before the due date of the tax under applicable nonbankruptcy law, unless—

''(1) the tax is a property tax secured by a lien against property that is abandoned under section 554 of title 11, within a reasonable period of time after the lien attaches, by the trustee in a case under title 11; or

''(2) payment of the tax is excused under a specific provision of title 11.

''(c) In a case pending under chapter 7 of title 11, payment of a tax may be deferred until final distribution is made under section 726 of title 11, if—

''(1) the tax was not incurred by a trustee duly appointed or elected 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) PAYMENT OF AD VALOREM TAXES REQUIRED.—Section 503(b)(1)(B)(i) of title 11, United States Code, is amended by inserting ''whether secured or unsecured, including property taxes for which liability is in rem, in personam, or both,'' before ''except''.

(c) REQUEST FOR PAYMENT OF ADMINISTRATIVE EXPENSE TAXES ELIMINATED.—Section 503(b)(1) of title 11, United States Code, is amended—

(1) in subparagraph (B), by striking ''and'' at the end;

(2) in subparagraph (C), by adding ''and'' at the end; and

(3) by adding at the end the following:

''(D) notwithstanding the requirements of subsection (a), a governmental unit shall not be required to file a request for the payment of an expense described in subparagraph (B) or (C), as a condition of 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''; and

(2) in subsection (c), by inserting '', including the payment of all ad valorem property taxes with respect to the property'' before the period at the end.

SEC. 713. TARDILY FILED PRIORITY TAX CLAIMS.

Section 726(a)(1) of title 11, United States Code, is amended by striking ''before the date on which the trustee commences distribution under this section;'' and inserting the following: ''on or before the earlier of—

''(A) the date that is 10 days after the mailing to creditors of the summary of the trustee's final report; or

''(B) the date on which the trustee commences final distribution under this section;''.

SEC. 714. INCOME TAX RETURNS PREPARED BY TAX AUTHORITIES.

Section 523(a) of title 11, United States Code, as amended by sections 215 and 224, is amended—

(1) in paragraph (1)(B)—

(A) in the matter preceding clause (i), by inserting ''or equivalent report or notice,'' after ''a return,'';

(B) in clause (i), by inserting ''or given'' after ''filed''; and

(C) in clause (ii)—

(i) by inserting ''or given'' after ''filed''; and

(ii) by inserting '', report, or notice'' after ''return''; and

(2) by adding at the end the following:

''For purposes of this subsection, the term 'return' means a return that satisfies the requirements of applicable nonbankruptcy law (including applicable filing requirements). Such term includes a return prepared pursuant to section 6020(a) of the Internal Revenue Code of 1986, or similar State or local law, or a written stipulation to a judgment 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 section 703, is amended by inserting ''the estate,'' after ''misrepresentation,''.

SEC. 716. REQUIREMENT TO FILE TAX RETURNS TO CONFIRM CHAPTER 13 PLANS.

(a) FILING OF PREPETITION TAX RETURNS REQUIRED FOR PLAN CONFIRMATION.—Section 1325(a) of title 11, United States Code, as amended by sections 102, 213, and 306, is amended by inserting after paragraph (8) 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 the creditors is first scheduled to be held under section 341(a), if the debtor was required to file a tax return under applicable nonbankruptcy law, the debtor shall file with appropriate tax authorities all tax returns for all taxable periods ending during the 4-year period ending on the date of the filing of the petition.

''(b)(1) Subject to paragraph (2), if the tax returns required by subsection (a) have not been filed by the date on which the 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 allow the debtor an additional period of time to file any unfiled returns, but such additional period of time shall not extend beyond—

''(A) for any return that is past due as of the date of the filing of the petition, the date that is 120 days after the date of that meeting; or

''(B) for any return that is not past due as of the date of the filing of the petition, the later of—

''(i) the date that is 120 days after the date of that meeting; or

''(ii) the date on which the return is due under the last automatic extension of time for filing that return to which the debtor is entitled, and for which request is timely made, in accordance with applicable nonbankruptcy law.

''(2) After notice and a hearing, and order entered before the tolling of any applicable filing period determined under this subsection, if the debtor demonstrates by a preponderance of the evidence that the failure to file a return as required under this subsection is attributable to circumstances beyond the control of the debtor, the court may extend the filing period established by the trustee under this subsection for—

''(A) a period of not more than 30 days for returns described in paragraph (1); and

''(B) a period not to extend after the applicable extended due date for a return described in paragraph (2).

''(c) For purposes of this section, the term 'return' includes a return prepared pursuant to subsection (a) or (b) of section 6020 of the Internal Revenue Code of 1986, or a similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal.''.

(2) CONFORMING AMENDMENT.—The table of sections for 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.''.

(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: '', and except that in a case under chapter 13, a claim of a governmental unit for a tax with respect to a return filed under section 1308 shall be timely if the claim is filed on or before the date that is 60 days after the date on which such return was filed as required''.

(e) RULES FOR OBJECTIONS TO CLAIMS AND TO CONFIRMATION.—It is the sense of Congress that the Judicial Conference of the United States should, as soon as practicable after the date of enactment of this Act, propose amended Federal Rules of Bankruptcy Procedure that provide—

(1) notwithstanding the provisions of Rule 3015(f), in cases under chapter 13 of title 11, United States Code, that an objection to the confirmation of a plan filed by a governmental unit on or before the date that is 60 days after the date on which the debtor files all tax returns required under sections 1308 and 1325(a)(7) of title 11, United States Code, shall be treated for all purposes as if such objection had been timely filed before such confirmation; and

(2) in addition to the provisions of Rule 3007, in a case under chapter 13 of title 11, United States Code, that no objection to a claim for a tax with respect to which a return is required to be filed under section 1308 of title 11, United States Code, shall be filed until such return has been filed as required.

SEC. 717. STANDARDS FOR TAX DISCLOSURE.

Section 1125(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 the holders of claims or interests in the case,'' after ''records,''; and

(2) by striking ''a hypothetical reasonable investor typical of holders of claims or interests'' and inserting ''such a hypothetical investor''.

SEC. 718. SETOFF OF TAX REFUNDS.

Section 362(b) of title 11, United States Code, as amended by sections 224, 303, 311, and 401, is amended by inserting after paragraph (25) the following:

''(26) under subsection (a), of the setoff under applicable nonbankruptcy law of an income tax refund, by a governmental unit, with respect to a taxable period that ended before the date of the order for relief against an income tax liability for a taxable period that also ended before the date of 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 hold the refund pending the resolution of the action, unless the court, on the motion of the trustee and after notice and a hearing, grants the taxing authority adequate protection (within the meaning of section 361) for the secured claim of such authority in the setoff under section 506(a);''.

SEC. 719. SPECIAL PROVISIONS RELATED TO THE TREATMENT OF STATE AND LOCAL TAXES.

(a) IN GENERAL.—

(1) SPECIAL PROVISIONS.—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 concerning a debtor under this title, and the income, gain, loss, deductions, and credits of such estate shall be taxed to or claimed by the estate, a separate taxable estate 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 and may not be taxed to or claimed by the debtor. The preceding sentence shall not apply if the case is dismissed. The trustee shall make tax returns of income required under any such State or local law.

''(b) Whenever the Internal Revenue Code of 1986 provides that no separate taxable estate shall be created in a case concerning a debtor under this title, and the income, gain, loss, deductions, and credits of an estate shall be taxed to or claimed by the debtor, such income, gain, loss, deductions, and credits shall be taxed to or claimed by the debtor under a State or local law imposing a tax on or measured by income and may not be taxed to or claimed by the estate. The trustee shall make such tax returns of income of corporations and of partnerships as are required under any State or local law, but with respect to partnerships, shall make such returns only to the extent such returns are also required to 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.

''(c) 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, or considered distributed, from such partnership, after the commencement of the case, is gain, loss, income, 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, shall be subject to tax in accordance with subsection (a) or (b).

''(d) 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 only 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 subsection (a) shall use the same accounting method as the debtor used immediately before the commencement of the case, if such method of accounting complies with applicable nonbankruptcy tax law.

''(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 to the extent 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 imposing a tax on or measured by income pursuant to subsection (a) or (b), such tax shall be imposed at rates generally applicable to the same types of entities under such State or local law.

''(h) The trustee shall withhold from any payment of claims for wages, salaries, commissions, dividends, interest, or other payments, or collect, any amount required to be withheld or collected under applicable State or local tax law, and shall pay such withheld or collected amount to the appropriate governmental unit at the time and in the manner required by such tax law, and with the same priority as the claim from which such amount was withheld or collected was paid.

''(i)(1) 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, the estate shall succeed to such tax attribute in any case in which such estate is subject to tax under subsection (a).

''(2) After such a case is closed or dismissed, the debtor shall succeed to any tax attribute to which the estate succeeded under paragraph (1) to the extent consistent with the Internal Revenue Code of 1986.

''(3) The estate may carry back any loss or tax attribute to a taxable period of the debtor that ended before the date of 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 same or a similar tax attribute may be carried back by the estate to such a

taxable period of the debtor under the Internal Revenue Code of 1986.

''(j)(1) 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 in a case 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 amount 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 items of income, gain, loss, deduction, and credit of any taxpayer shall be determined under applicable nonbankruptcy law.

''(2) For Federal tax purposes, the provisions of this section are subject to the Internal Revenue Code of 1986 and other applicable Federal nonbankruptcy law.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 11, United States Code, is amended by striking the item relating to section 346 and inserting the following:

''346. Special provisions related to the treatment of State and local taxes.''.

(b) CONFORMING AMENDMENTS.—Title 11 of the United States Code is amended—

(1) by striking section 728;

(2) in the table of sections for chapter 7 by striking the item relating to section 728;

(3) in section 1146—

(A) by striking subsections (a) and (b); and

(B) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively; and

(4) in section 1231—

(A) by striking subsections (a) and (b); and

(B) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively.

SEC. 720. DISMISSAL FOR FAILURE TO TIMELY FILE TAX RETURNS.

Section 521 of title 11, United States Code, as amended by sections 106, 225, 305, 315, and 316, is amended by adding at the end the following:

''(j)(1) Notwithstanding any other provision of this title, if the debtor fails to file a tax return that becomes due after the commencement of the case or to properly obtain an extension of the due date for filing such return, the taxing 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

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

''§ 1501. Purpose and scope of application

''(a) The purpose of this chapter is to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency with the objectives of—

''(1) cooperation between—

''(A) courts of the United States, United States trustees, trustees, examiners, debtors, and debtors in possession; and

''(B) the courts and other competent authorities of foreign countries involved in cross-border insolvency cases;

''(2) greater legal certainty for trade and investment;

''(3) fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor;

''(4) protection and maximization of the value of the debtor's assets; and

''(5) facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

''(b) This chapter applies where—

''(1) assistance is sought in the United States by a foreign court or a foreign representative in connection with a foreign proceeding;

''(2) assistance is sought in a foreign country in connection with a case under this title;

''(3) a foreign proceeding and a case under this title with respect to the same debtor are pending concurrently; or

''(4) creditors or other interested persons in a foreign country have an interest in requesting the commencement of, or participating in, a case or proceeding under this title.

''(c) This chapter does not apply to—

''(1) a proceeding concerning an entity, other than a foreign insurance company, identified by exclusion in section 109(b);

''(2) an individual, or to an individual and such individual's spouse, who have debts within the limits specified in section 109(e) and who are citizens of the United States or aliens lawfully admitted for permanent residence in the United States; or

''(3) an entity subject to a proceeding under the Securities Investor Protection Act of 1970, a stockbroker subject to subchapter III of chapter 7 of this title, or a commodity broker subject to subchapter IV of chapter 7 of this title.

''(d) The court may not grant relief under this chapter with respect to any deposit, escrow, trust fund, or other security required or permitted under any applicable State insurance law or regulation for the benefit of claim holders in the United States.

''SUBCHAPTER I—GENERAL PROVISIONS

''§ 1502. Definitions

''For the purposes of this chapter, the term—

''(1) 'debtor' means an entity that is the subject of a foreign proceeding;

''(2) 'establishment' means any place of operations where the debtor carries out a nontransitory economic activity;

''(3) 'foreign court' means a judicial or other authority competent to control or supervise a foreign proceeding;

''(4) 'foreign main proceeding' means a foreign proceeding pending in the country where the debtor has the center of its main interests;

''(5) 'foreign nonmain proceeding' means a foreign proceeding, other than a foreign main proceeding, pending in a country where the debtor has an establishment;

''(6) 'trustee' includes a trustee, a debtor in possession in a case under any chapter of this title, or a debtor under chapter 9 of this title;

''(7) 'recognition' means the entry of an order granting recognition of a foreign main proceeding or foreign nonmain proceeding under this chapter; and

''(8) 'within the territorial jurisdiction of the United States', when used with reference to property of a debtor, refers to tangible property located within the territory of the United States and intangible property deemed under applicable nonbankruptcy law to be located within that territory, including any property subject to attachment or garnishment that may properly be seized or garnished by an action in a Federal or State court in the United States.

"§ 1503. International obligations of the United States

''To the extent that this chapter conflicts with an obligation of the United States arising out of any treaty or other form of agreement to which it is a party with one or more other countries, the requirements of the treaty or agreement prevail.

"§ 1504. Commencement of ancillary case

''A case under this chapter is commenced by the filing of a petition for recognition of a foreign proceeding under section 1515.

"§ 1505. Authorization to act in a foreign country

''A trustee or another entity (including an examiner) may be authorized by the court to act in a foreign country on behalf of an estate created under section 541. An entity authorized to act under this section may act in any way permitted by the applicable foreign law.

"§ 1506. Public policy exception

''Nothing in this chapter prevents the court from refusing to take an action governed by this chapter if the action would be manifestly contrary to the public policy of the United States.

"§ 1507. Additional assistance

''(a) Subject to the specific limitations stated elsewhere in this chapter the court, if recognition is granted, may provide additional assistance to a foreign representative under this title or under other laws of the United States.

''(b) In determining whether to provide additional assistance under this title or under other laws of the United States, the court shall consider whether such additional assistance, consistent with the principles of comity, will reasonably assure—

''(1) just treatment of all holders of claims against or interests in the debtor's property;

''(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;

''(3) prevention of preferential or fraudulent dispositions of property of the debtor;

''(4) distribution of proceeds of the debtor's property substantially in accordance with the order prescribed by this title; and

''(5) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.

"§ 1508. Interpretation

''In interpreting this chapter, the court shall consider its international origin, and the need to promote an application of this chapter that is consistent with the application of similar statutes adopted by foreign jurisdictions.

''SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

"§ 1509. Right of direct access

''(a) A foreign representative 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 1517, 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; and

''(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 necessary to prevent 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 or recover a claim which is the property of the debtor.

"§ 1510. Limited jurisdiction

''The sole fact that a foreign representative files a petition under section 1515 does not subject the foreign representative to the jurisdiction of 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

''Upon 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

''(a) Foreign creditors have the same rights regarding the commencement of, and participation in, a case under this title as domestic creditors.

''(b)(1) Subsection (a) does not change or codify present law as to the priority of claims under section 507 or 726, except that the claim of a foreign creditor under those sections shall not be given a lower priority than that of general unsecured claims without priority solely because the holder of such claim is a foreign creditor.

''(2)(A) Subsection (a) and paragraph (1) do not change or codify present law as to the allowability of foreign revenue claims or other foreign public law claims in a proceeding under this title.

''(B) Allowance and priority as to a foreign tax claim or other foreign public law claim shall be governed by any applicable tax treaty of the United States, under the conditions and circumstances specified therein.

"§ 1514. Notification to foreign creditors concerning a case under this title

''(a) Whenever in a case under this title notice is to be given to creditors generally or to any class or category of creditors, such notice shall also be given to the known creditors generally, or to creditors in the notified class or category, that do not have addresses in the United States. The court may order that appropriate steps be taken with a view to notifying any creditor whose address is not yet known.

''(b) Such notification to creditors with foreign addresses described in subsection (a) shall be given individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No letter or other formality is required.

''(c) When a notification of commencement of a case is to be given to foreign creditors, such notification shall—

''(1) indicate the time period for filing proofs of claim and specify the place for filing such proofs of claim;

''(2) indicate whether secured creditors need to file proofs of claim; and

''(3) contain any other information required to be included in such 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 proof of 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 a foreign proceeding in which the foreign representative has been appointed by filing a petition for recognition.

''(b) A petition for recognition shall be accompanied by—

''(1) a certified copy of the decision commencing such foreign proceeding and appointing the foreign representative;

''(2) a certificate from the foreign court affirming the existence of such foreign proceeding and of the appointment of the foreign representative; or

''(3) in the absence of evidence referred to in paragraphs (1) and (2), any other evidence acceptable to the court of the existence of such foreign proceeding and of the appointment of the foreign representative.

''(c) A petition for recognition shall also be accompanied by a statement identifying all foreign proceedings with respect to the debtor that are known to the foreign representative.

''(d) The documents referred to in paragraphs (1) and (2) of subsection (b) shall be translated into English. The court may require a translation into English of additional documents.

"§ 1516. Presumptions concerning recognition

''(a) If the decision or certificate referred to in section 1515(b) indicates that the foreign proceeding is a foreign proceeding and that the person or body is a foreign representative, the court is entitled to so presume.

''(b) The court is entitled to presume that documents submitted in support of the petition for recognition are authentic, whether or not they have been legalized.

''(c) In the absence of evidence to the contrary, the debtor's registered office, or habitual residence in the case of an individual, is presumed to be the center of the debtor's main interests.

"§ 1517. Order granting recognition

''(a) Subject to section 1506, after notice and a hearing, an order recognizing a foreign proceeding shall be entered if—

''(1) such foreign proceeding for which recognition is sought is a foreign main proceeding or foreign nonmain proceeding within the meaning of section 1502;

''(2) the foreign representative applying for recognition is a person or body; and

''(3) the petition meets the requirements of section 1515.

''(b) Such foreign proceeding shall be recognized—

''(1) as a foreign main proceeding if it is pending in the country where the debtor has the center of its main interests; or

''(2) as a foreign nonmain proceeding if the debtor has an establishment within the meaning of section 1502 in the foreign country where the proceeding is pending.

''(c) A petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time. Entry of an order recognizing a foreign proceeding constitutes recognition under this chapter.

''(d) The provisions of this subchapter do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist, but in considering such action the court shall give due weight to possible prejudice to parties that have relied upon the order granting recognition. A case under this chapter may be closed in the manner prescribed under section 350.

''§ 1518. Subsequent information

''From the time of filing the petition for recognition of a foreign proceeding, the foreign representative shall file with the court promptly a notice of change of status concerning—

''(1) any substantial change in the status of such foreign proceeding or the status of the foreign representative's appointment; and

''(2) any other foreign proceeding regarding the debtor that becomes known to the foreign representative.

''§ 1519. Relief that may be granted upon filing petition for recognition

''(a) From the time of filing a petition for recognition until the court rules on the petition, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including—

''(1) staying execution against the debtor's assets;

''(2) entrusting the administration or realization of all or part of the debtor's assets located in the United States to the foreign representative or another person authorized by the court, including an examiner, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy; and

''(3) any relief referred to in paragraph (3), (4), or (7) of section 1521(a).

''(b) Unless extended under section 1521(a)(6), the relief granted under this section terminates when the petition for recognition is granted.

''(c) It is a ground for denial of relief under this section that such relief would interfere with the administration of a foreign main proceeding.

''(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

''(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.

''(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(n) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

''§ 1520. Effects of recognition of a foreign main proceeding

''(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—

''(1) sections 361 and 362 apply with respect to the debtor and the property of the debtor that is within the territorial jurisdiction of the United States;

''(2) sections 363, 549, and 552 apply to a transfer of an interest of the debtor in property that is within the territorial jurisdiction of the United States to the same extent that the sections would apply to property of an estate;

''(3) unless the court orders otherwise, the foreign representative may operate the debtor's business and may exercise the rights and powers of a trustee under and to the extent provided by sections 363 and 552; and

''(4) section 552 applies to property of the debtor that is within the territorial jurisdiction of the United States.

''(b) Subsection (a) does not affect the right to commence an individual action or proceeding in a foreign country to the extent necessary to preserve a claim against the debtor.

''(c) Subsection (a) does not affect the right of a foreign representative or an entity to file a petition commencing a case under this title or the right of any party to file claims or take other proper actions in such a case.

''§ 1521. Relief that may be granted upon recognition

''(a) Upon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—

''(1) staying the commencement or continuation of an individual action or proceeding concerning the debtor's assets, rights, obligations or liabilities to the extent they have not been stayed under section 1520(a);

''(2) staying execution against the debtor's assets to the extent it has not been stayed under section 1520(a);

''(3) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent this right has not been suspended under section 1520(a);

''(4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;

''(5) entrusting the administration or realization of all or part of the debtor's assets within the territorial jurisdiction of the United States to the foreign representative or another person, including an examiner, authorized by the court;

''(6) extending relief granted under section 1519(a); and

''(7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a).

''(b) Upon recognition of a foreign proceeding, whether main or nonmain, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's assets located in the United States to the foreign representative or another person, including an examiner, authorized by the court, provided that the court is satisfied that the interests of creditors in the United States are sufficiently protected.

''(c) In granting relief under this section to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

''(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

''(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under paragraphs (1), (2), (3), and (6) of subsection (a).

''(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(n) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

''§ 1522. Protection of creditors and other interested persons

''(a) The court may grant relief under section 1519 or 1521, or may modify or terminate relief under subsection (c), only if the interests of the creditors and other interested entities, including the debtor, are sufficiently protected.

''(b) The court may subject relief granted under section 1519 or 1521, or the operation of the debtor's business under section 1520(a)(3), to conditions it considers appropriate, including the giving of security or the filing of a bond.

''(c) The court may, at the request of the foreign representative or an entity affected by relief granted under section 1519 or 1521, or at its own motion, modify or terminate such relief.

''(d) Section 1104(d) shall apply to the appointment of an examiner under this chapter. Any examiner shall comply with the qualification requirements imposed on a trustee by section 322.

''§ 1523. Actions to avoid acts detrimental to creditors

''(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a case concerning the debtor pending under another chapter of this title to initiate actions under sections 522, 544, 545, 547, 548, 550, 553, and 724(a).

''(b) When a foreign proceeding is a foreign nonmain proceeding, the court must be satisfied that an action under subsection (a) relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

''§ 1524. Intervention by a foreign representative

''Upon recognition of a foreign proceeding, the foreign representative may intervene in any proceedings in a State or Federal court in the United States in which the debtor is a party.

''SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

''§ 1525. Cooperation and direct communication between the court and foreign courts or foreign representatives

''(a) Consistent with section 1501, the court shall cooperate to the maximum extent possible with a foreign court or a foreign representative, either directly or through the trustee.

''(b) The court is entitled to communicate directly with, or to request information or assistance directly from, a foreign court or a foreign representative, subject to the rights of a party 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 a foreign court or a foreign representative.

''(b) The trustee or other person, including an examiner, authorized by the court is entitled, subject to the supervision of the court,

to communicate directly with a foreign court or a foreign representative.

"§ 1527. Forms of cooperation

''Cooperation referred to in sections 1525 and 1526 may be implemented by any appropriate means, including—

''(1) appointment of a person or body, including an examiner, to act at the direction of the court;

''(2) communication of information by any means considered appropriate by the court;

''(3) coordination of the administration and supervision of the debtor's assets and affairs;

''(4) approval or implementation of agreements concerning the coordination of proceedings; and

''(5) coordination of concurrent proceedings regarding the same debtor.

''SUBCHAPTER V—CONCURRENT PROCEEDINGS

"§ 1528. Commencement of a case under this title after recognition of a foreign main proceeding

''After recognition of a foreign main proceeding, a case under another chapter of this title may be commenced only if the debtor has assets in the United States. The effects of such case shall be restricted to the assets of the debtor that are within the territorial jurisdiction of the United States and, to the extent necessary to implement cooperation and coordination under sections 1525, 1526, and 1527, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a) of this title, and 1334(e) of title 28, to the extent that such other assets are not subject to the jurisdiction and control of a foreign proceeding that has been recognized under this chapter.

"§ 1529. Coordination of a case under this title and a foreign proceeding

''If a foreign proceeding and a case under another chapter of this title are pending concurrently regarding the same debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

''(1) If the case in the United States pending at the time the petition for recognition of such foreign proceeding is filed—

''(A) any relief granted under section 1519 or 1521 must be consistent with the relief granted in the case in the United States; and

''(B) section 1520 does not apply even if such foreign proceeding is recognized as a foreign main proceeding.

''(2) If a case in the United States under this title commences after recognition, or after the date of the filing of the petition for recognition, of such foreign proceeding—

''(A) any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the case in the United States; and

''(B) if such foreign proceeding is a foreign main proceeding, the stay and suspension referred to in section 1520(a) shall be modified or terminated if inconsistent with the relief granted in the case in the United States.

''(3) In granting, extending, or modifying relief granted to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the laws of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

''(4) In achieving cooperation and coordination under sections 1528 and 1529, the court may grant any of the relief authorized under section 305.

"§ 1530. Coordination of more than 1 foreign proceeding

''In matters referred to in section 1501, with respect to more than 1 foreign proceeding regarding the debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

''(1) Any relief granted under section 1519 or 1521 to a representative of a foreign nonmain proceeding after recognition of a foreign main proceeding must be consistent with the foreign main proceeding.

''(2) If a foreign main proceeding is recognized after recognition, or after the filing of a petition for recognition, of a foreign nonmain proceeding, any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the foreign main proceeding.

''(3) If, after recognition of a foreign nonmain proceeding, another foreign nonmain proceeding is recognized, the court shall grant, modify, or terminate relief for the purpose of facilitating coordination of the proceedings.

"§ 1531. Presumption of insolvency based on recognition of a foreign main proceeding

''In the absence of evidence to the contrary, recognition of a foreign main proceeding is, for the purpose of commencing a proceeding under section 303, proof that the debtor is generally not paying its debts as such debts become due.

"§ 1532. Rule of payment in concurrent proceedings

''Without prejudice to secured claims or rights in rem, a creditor who has received payment with respect to its claim in a foreign proceeding pursuant to a law relating to insolvency may not receive a payment for the same claim in a case under any other chapter of this title regarding the debtor, so long as the payment to other creditors of the same class is proportionately less than the payment the creditor has already received.''.

(b) CLERICAL AMENDMENT.—The table of chapters for title 11, United States Code, is amended by inserting after the item relating to chapter 13 the following:

"15. Ancillary and Other Cross-Border Cases ..... 1501".

SEC. 802. OTHER AMENDMENTS TO TITLES 11 AND 28, UNITED STATES CODE.

(a) APPLICABILITY OF CHAPTERS.—Section 103 of title 11, United States Code, is amended—

(1) in subsection (a), by inserting before the period the following: '', and this chapter, sections 307, 362(n), 555 through 557, and 559 through 562 apply in a case under chapter 15''; and

(2) by adding at the end the following:

''(k) Chapter 15 applies only in a case under such chapter, except that—

''(1) sections 1505, 1513, and 1514 apply in all cases under this title; and

''(2) section 1509 applies whether or not a case under this title is pending.''.

(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 proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;

''(24) 'foreign representative' means a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor's assets or affairs or to act as a representative of such foreign proceeding;''.

(c) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—

(1) PROCEDURES.—Section 157(b)(2) of title 28, United States Code, is amended—

(A) in subparagraph (N), by striking ''and'' at the end;

(B) in subparagraph (O), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(P) recognition of foreign proceedings and other matters under chapter 15 of title 11.''.

(2) BANKRUPTCY CASES AND PROCEEDINGS.—Section 1334(c) of title 28, United States Code, is amended by striking ''Nothing in'' and inserting ''Except with respect to a case under chapter 15 of title 11, nothing in''.

(3) DUTIES OF TRUSTEES.—Section 586(a)(3) of title 28, United States Code, is amended by striking ''or 13'' and inserting ''13, or 15''.

(4) VENUE OF CASES ANCILLARY TO FOREIGN PROCEEDINGS.—Section 1410 of title 28, United States Code, is amended to read as follows:

"§ 1410. Venue of cases ancillary to foreign proceedings

''A case under chapter 15 of title 11 may be commenced in the district court of the United States 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 relief sought by the foreign representative.''.

(d) OTHER SECTIONS OF TITLE 11.—Title 11 of the United States Code is amended—

(1) in section 109(b), by striking paragraph (3) and inserting the following:

''(3)(A) a foreign insurance company, engaged in such business in the United States; or

''(B) a foreign bank, savings bank, cooperative bank, savings and loan association, building and loan association, or credit union, that has a branch or agency (as defined in section 1(b) of the International Banking Act of 1978 in the United States.'';

(2) in section 303, by striking subsection (k);

(3) by striking section 304;

(4) in the table of sections for chapter 3 by striking the item relating to section 304;

(5) in section 306 by striking '', 304,'' each place it appears;

(6) in section 305(a) by striking paragraph (2) and inserting the following:

''(2)(A) a petition under section 1515 for recognition of a foreign proceeding has been granted; and

''(B) the purposes of chapter 15 of this title would be best served by such dismissal or suspension.''; and

(7) in section 508—

(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.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended—

(A) by striking ''subsection—'' and inserting ''subsection, the following definitions shall apply:''; and

(B) in clause (i), by inserting '', resolution, or order'' after ''any similar agreement that the Corporation determines by regulation''.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended—

(A) by striking ''subsection—'' and inserting ''subsection, the following definitions shall apply:''; and

(B) in clause (i), by inserting '', resolution, or order'' after ''any similar agreement that the Board determines by regulation''.

(b) DEFINITION OF SECURITIES CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—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) SECURITIES CONTRACT.—The term 'securities contract'—

''(I) means 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, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

''(II) 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 option on any of the foregoing, including any option to purchase or sell 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 combination of the agreements or transactions referred to in this clause;

''(VIII) means any option to enter into any agreement or transaction referred to in this clause;

''(IX) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII); and

''(X) means 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.''.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(ii) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(ii)) is amended to read as follows:

''(ii) SECURITIES CONTRACT.—The term 'securities contract'—

''(I) means 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, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

''(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Board 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 option on any of the foregoing, including any option to purchase or sell 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 combination of the agreements or transactions referred to in this clause;

''(VIII) means any option to enter into any agreement or transaction referred to in this clause;

''(IX) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII); and

''(X) means 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.''.

(c) DEFINITION OF COMMODITY CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iii)) is amended to read as follows:

''(iii) COMMODITY CONTRACT.—The term 'commodity contract' means—

''(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

''(II) with respect to a foreign futures commission merchant, a foreign future;

''(III) with respect to a leverage transaction merchant, a leverage transaction;

''(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;

''(V) with respect to a commodity options dealer, a commodity option;

''(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

''(VII) any combination of the agreements or transactions referred to in this clause;

''(VIII) any option to enter into any agreement or transaction referred to in this clause;

''(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); 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.''.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(iii) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(iii)) is amended to read as follows:

''(iii) COMMODITY CONTRACT.—The term 'commodity contract' means—

''(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

''(II) with respect to a foreign futures commission merchant, a foreign future;

''(III) with respect to a leverage transaction merchant, a leverage transaction;

''(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;

''(V) with respect to a commodity options dealer, a commodity option;

''(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

''(VII) any combination of the agreements or transactions referred to in this clause;

''(VIII) any option to enter into any agreement or transaction referred to in this clause;

''(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under

this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); 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.''.

(d) DEFINITION OF FORWARD CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows:

''(iv) FORWARD CONTRACT.—The term 'forward contract' means—

''(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

''(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

''(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

''(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

''(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.''.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(iv) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(iv)) is amended to read as follows:

''(iv) FORWARD CONTRACT.—The term 'forward contract' means—

''(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

''(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

''(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

''(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

''(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.''.

(e) DEFINITION OF REPURCHASE AGREEMENT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(v) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(v)) is amended to read as follows:

''(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

''(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified 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 bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' 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) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such participation within the meaning of such term;

''(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

''(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

''(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

''(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

For purposes of this clause, the term 'qualified foreign government security' means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development (as determined by regulation or order adopted by the appropriate Federal banking authority).''.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(v) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(v)) is amended to read as follows:

''(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

''(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified 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 bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' 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) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Board determines by regulation, resolution, or order to include any such participation within the meaning of such term;

''(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

''(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

''(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

''(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

For purposes of this clause, the term 'qualified foreign government security' means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development (as determined by regulation or order adopted by the appropriate Federal banking authority).''.

(f) DEFINITION OF SWAP AGREEMENT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(vi) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vi)) is amended to read as follows:

''(vi) SWAP AGREEMENT.—The term 'swap agreement' means—

''(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, 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 index or 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 any other agreement or transaction referred to in this clause and that is of a type that has been, 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 forward, swap, 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) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any 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 under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

''(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

Such term is applicable for purposes of this subsection only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.''.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended by adding at the end the following new clause:

''(vi) SWAP AGREEMENT.—The term 'swap agreement' means—

''(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, 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 index or 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 any other agreement or transaction referred to in this clause and that is of a type that has been, 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 forward, swap, 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) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any 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 under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

''(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

Such term is applicable for purposes of this subsection only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.''.

(g) DEFINITION OF TRANSFER.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(viii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(viii)) is amended to read as follows:

''(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institution's equity of redemption.''.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) (as amended by subsection (f) of this section) is amended by adding at the end the following new clause:

''(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institution's equity of redemption.''.

(h) TREATMENT OF QUALIFIED FINANCIAL CONTRACTS.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(A) in subparagraph (A)—

(i) by striking ''paragraph (10)'' and inserting ''paragraphs (9) and (10)'';

(ii) in clause (i), by striking ''to cause the termination or liquidation'' and inserting ''such person has to cause the termination, liquidation, or acceleration''; and

(iii) by striking clause (ii) and inserting the following new clause:

''(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);''; and

(B) in subparagraph (E), by striking clause (ii) and inserting the following:

''(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);''.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)) is amended—

(A) in subparagraph (A)—

(i) by striking ''paragraph (12)'' and inserting ''paragraphs (9) and (10)'';

(ii) in clause (i), by striking ''to cause the termination or liquidation'' and inserting ''such person has to cause the termination, liquidation, or acceleration''; and

(iii) by striking clause (ii) and inserting the following new clause:

''(ii) any right under any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts described in clause (i);''; and

(B) in subparagraph (E), by striking clause (ii) and inserting the following new clause:

''(ii) any right under any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts described in clause (i);''.

(i) AVOIDANCE OF TRANSFERS.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(C)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(C)(i)) is amended by inserting ''section 5242 of the Revised Statutes of the United States or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers,'' before ''the Corporation''.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(C)(i) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(C)(i)) is amended by inserting ''section 5242 of the Revised Statutes of the United States or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers,'' before ''the Board''.

SEC. 902. AUTHORITY OF THE FDIC AND NCUAB WITH RESPECT TO FAILED AND FAILING INSTITUTIONS.

(a) FEDERAL DEPOSIT INSURANCE CORPORATION.—

(1) IN GENERAL.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(A) in subparagraph (E), by striking ''other than paragraph (12) of this subsection, subsection (d)(9)'' and inserting ''other than subsections (d)(9) and (e)(10)''; and

(B) by adding at the end the following new subparagraphs:

''(F) CLARIFICATION.—No provision of law shall be construed as limiting the right or power of the Corporation, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Corporation to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (e)(1) of this section.

''(G) WALKAWAY CLAUSES NOT EFFECTIVE.—

''(i) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured depository institution in default.

''(ii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party's status as a nondefaulting party.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 11(e)(12)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(12)(A)) is amended by inserting ''or the exercise of rights or powers by'' after ''the appointment of''.

(b) NATIONAL CREDIT UNION ADMINISTRATION BOARD.—

(1) IN GENERAL.—Section 207(c)(8) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)) is amended—

(A) in subparagraph (E) (as amended by section 901(h)), by striking ''other than paragraph (12) of this subsection, subsection (b)(9)'' and inserting ''other than subsections (b)(9) and (c)(10)''; and

(B) by adding at the end the following new subparagraphs:

''(F) CLARIFICATION.—No provision of law shall be construed as limiting the right or power of the Board, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Board to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (c)(1) of this section.

''(G) WALKAWAY CLAUSES NOT EFFECTIVE.—

''(i) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured credit union in default.

''(ii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party's status as a nondefaulting party.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 207(c)(12)(A) of the Federal Credit Union Act (12 U.S.C. 1787(c)(12)(A)) is amended by inserting ''or the exercise of rights or powers by'' after ''the appointment of''.

SEC. 903. AMENDMENTS RELATING TO TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—

(1) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS TO FINANCIAL INSTITUTIONS.—Section 11(e)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(9)) is amended to read as follows:

''(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—

''(A) IN GENERAL.—In making any transfer of assets or liabilities of a depository institution in default which includes any qualified financial contract, the conservator or receiver for such depository institution shall either—

''(i) transfer to one financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

''(I) all qualified financial contracts between any person or any affiliate of such person and the depository institution in default;

''(II) all claims of such person or any affiliate of such person against such depository institution under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such institution);

''(III) all claims of such depository institution against such person or any affiliate of such person under any such contract; and

''(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

''(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

''(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the conservator or receiver for the depository institution shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

''(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that a conservator or receiver transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i) 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 transferee as a member by virtue of the transfer.

''(D) DEFINITIONS.—For purposes of this paragraph, the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, or any other institution, as determined by the Corporation by regulation to be a financial institution, and the term 'clearing organization' has the same meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.''.

(2) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTIES.—Section 11(e)(10)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is amended in the material immediately following clause (ii) by striking ''the conservator'' and all that follows through the period and inserting the following: ''the conservator or receiver shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver in the case of a receivership, or the business day following such transfer in the case of a conservatorship.''.

(3) RIGHTS AGAINST RECEIVER AND CONSERVATOR AND TREATMENT OF BRIDGE BANKS.—Section 11(e)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (D); and

(B) by inserting after subparagraph (A) the following new subparagraphs:

''(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

''(i) RECEIVERSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a receiver for the depository institution (or the insolvency or financial condition of the depository institution for which the receiver has been appointed)—

''(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver; or

''(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

''(ii) 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) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the depository institution (or the insolvency or financial condition of the depository institution for which the conservator has been appointed).

''(iii) NOTICE.—For purposes of this paragraph, the Corporation as receiver or conservator of an insured depository institution shall 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, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of paragraph (9):

''(i) A bridge bank.

''(ii) A depository institution organized by the Corporation, for which a conservator is appointed either—

''(I) immediately upon the organization of the institution; or

''(II) at the time of a purchase and assumption transaction between the depository institution and the Corporation as receiver for a depository institution in default.''.

(b) INSURED CREDIT UNIONS.—

(1) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS TO FINANCIAL INSTITUTIONS.—Section 207(c)(9) of the Federal Credit Union Act (12 U.S.C. 1787(c)(9)) is amended to read as follows:

''(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—

''(A) IN GENERAL.—In making any transfer of assets or liabilities of a credit union in default which includes any qualified financial contract, the conservator or liquidating agent for such credit union shall either—

''(i) transfer to 1 financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

''(I) all qualified financial contracts between any person or any affiliate of such person and the credit union in default;

''(II) all claims of such person or any affiliate of such person against such credit union under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such credit union);

''(III) all claims of such credit union against such person or any affiliate of such person under any such contract; and

''(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

''(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

''(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the conservator or liquidating agent for the credit union shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

''(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that a conservator or liquidating agent transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to 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 transferee as a member by virtue of the transfer.

''(D) DEFINITIONS.—For purposes of this paragraph—

''(i) the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, a credit union, or any other institution, as determined by the Board by regulation to be a financial institution; and

''(ii) the term 'clearing organization' has the same meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.''.

(2) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTIES.—Section 207(c)(10)(A) of the Federal Credit Union Act (12 U.S.C. 1787(c)(10)(A)) is amended in the material immediately following clause (ii) by striking ''the conservator'' and all that follows through the period and inserting the following: ''the conservator or liquidating agent shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the liquidating agent in the case of a liquidation, or the business day following such transfer in the case of a conservatorship.''.

(3) RIGHTS AGAINST LIQUIDATING AGENT AND CONSERVATOR AND TREATMENT OF BRIDGE BANKS.—Section 207(c)(10) of the Federal Credit Union Act (12 U.S.C. 1787(c)(10)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (D); and

(B) by inserting after subparagraph (A) the following new subparagraphs:

''(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

''(i) LIQUIDATION.—A person who is a party to a qualified financial contract with an insured credit union may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a liquidating agent for the credit union institution (or the insolvency or financial condition of the credit union for which the liquidating agent has been appointed)—

''(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the liquidating agent; or

''(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

''(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with an insured credit union may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the credit union or the insolvency or financial condition of the credit union for which the conservator has been appointed).

''(iii) NOTICE.—For purposes of this paragraph, the Board as conservator or liquidating agent of an insured credit union shall be deemed to have notified a person who is a party to a qualified financial contract with such credit union if the Board 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, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of paragraph (9):

''(i) A bridge bank.

''(ii) A credit union organized by the Board, for which a conservator is appointed either—

''(I) immediately upon the organization of the credit union; or

''(II) at the time of a purchase and assumption transaction between the credit union and the Board as receiver for a credit union in default.''.

SEC. 904. AMENDMENTS RELATING TO DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended—

(1) by redesignating paragraphs (11) through (15) as paragraphs (12) through (16), respectively;

(2) by inserting after paragraph (10) the following new paragraph:

''(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or receiver with respect to any qualified financial contract to which an insured depository institution is a party, the conservator or receiver for such institution shall either—

''(A) disaffirm or repudiate all qualified financial contracts between—

''(i) any person or any affiliate of such person; and

''(ii) the depository institution in default; or

''(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person).''; and

(3) by adding at the end the following new paragraph:

''(17) SAVINGS CLAUSE.—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.''.

(b) INSURED CREDIT UNIONS.—Section 207(c) of the Federal Credit Union Act (12 U.S.C. 1787(c)) is amended—

(1) by redesignating paragraphs (11), (12), and (13) as paragraphs (12), (13), and (14), respectively;

(2) by inserting after paragraph (10) the following new paragraph:

''(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or liquidating agent with respect to any qualified financial contract to which an insured credit union is a party, the conservator or liquidating agent for such credit union shall either—

''(A) disaffirm or repudiate all qualified financial contracts between—

''(i) any person or any affiliate of such person; and

''(ii) the credit union in default; or

''(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person).''; and

(3) by adding at the end the following new paragraph:

''(15) SAVINGS CLAUSE.—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of

2000, the securities laws (as that term is defined in section (a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.''.

SEC. 905. CLARIFYING AMENDMENT RELATING TO MASTER AGREEMENTS.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(vii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vii)) is amended to read as follows:

''(vii) 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 for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.''.

(b) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended by inserting after clause (vi) (as added by section 901(f)) the following new clause:

''(vii) 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 for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.''.

SEC. 906. FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) DEFINITIONS.—Section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4402) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)(ii), by inserting before the semicolon '', or is exempt from such registration by order of the Securities and Exchange Commission''; and

(B) in subparagraph (B), by inserting before the period '', that has been granted an exemption under section 4(c)(1) of the Commodity Exchange Act, or that is a multilateral clearing organization (as defined in section 408 of this Act)'';

(2) in paragraph (6)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

(B) by inserting after subparagraph (A) the following new subparagraph:

''(B) an uninsured national bank or an uninsured State bank that is a member of the Federal Reserve System, if the national bank or State member bank is not eligible to make application to become an insured bank under section 5 of the Federal Deposit Insurance Act;''; and

(C) by amending subparagraph (C), so redesignated, to read as follows:

''(C) a branch or agency of a foreign bank, a foreign bank and any branch or agency of the foreign bank, or the foreign bank that established the branch or agency, as those terms are defined in section 1(b) of the International Banking Act of 1978;'';

(3) in paragraph (11), by inserting before the period ''and any other clearing organization with which such clearing organization has a netting contract'';

(4) by amending paragraph (14)(A)(i) to read as follows:

''(i) means a contract or agreement between 2 or more financial institutions, clearing organizations, or members that provides for netting present or future payment obligations or payment entitlements (including liquidation or close out values relating to such obligations or entitlements) among the parties to the agreement; and''; and

(5) by adding at the end the following new paragraph:

''(15) PAYMENT.—The term 'payment' means a payment of United States dollars, another currency, or a composite currency, and a noncash delivery, including a payment or delivery to liquidate an unmatured obligation.''.

(b) ENFORCEABILITY OF BILATERAL NETTING CONTRACTS.—Section 403 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4403) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) GENERAL RULE.—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, paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union Act, or any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code).''; and

(2) by adding at the end the following new subsection:

''(f) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related 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 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, paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union Act, and section 5(b)(2) of the Securities Investor Protection Act of 1970).''.

(c) ENFORCEABILITY OF CLEARING ORGANIZATION NETTING CONTRACTS.—Section 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4404) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) GENERAL RULE.—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, paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union 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 to and from all other members of a clearing organization shall be netted in accordance with and subject to the conditions of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code).''; and

(2) by adding at the end the following new subsection:

''(h) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related 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 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, paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union Act, and section 5(b)(2) of the Securities Investor Protection Act of 1970).''.

(d) ENFORCEABILITY OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.—The Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.) is amended—

(1) by redesignating section 407 as section 407A; and

(2) by inserting after section 406 the following new section:

''SEC. 407. TREATMENT OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.

''(a) IN GENERAL.—Notwithstanding any other provision of law, paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act shall apply to an uninsured national bank or 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, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, except that for such purpose—

''(1) any reference to the 'Corporation as receiver' or 'the receiver or the Corporation' shall refer 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;

''(2) any reference to the 'Corporation' (other than in section 11(e)(8)(D) of such Act), the 'Corporation, whether acting as such or as conservator or receiver', a 'receiver', or a 'conservator' shall refer to the receiver or conservator appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver or conservator 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, or operates as, a multilateral clearing organization pursuant to section 409 of this Act.

''(b) LIABILITY.—The liability of a receiver or conservator of an uninsured national bank, uninsured Federal branch or agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, shall be determined in the same manner and subject to the same limitations that apply to receivers and conservators of insured depository

institutions under section 11(e) of the Federal Deposit Insurance Act.

''(c) REGULATORY AUTHORITY.—

''(1) IN GENERAL.—The Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency and the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank that operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, in consultation with the Federal Deposit Insurance Corporation, may each promulgate regulations solely to implement this section.

''(2) SPECIFIC REQUIREMENT.—In promulgating regulations, limited solely to implementing paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act, the Comptroller of the Currency and the Board of Governors of the Federal Reserve System each shall ensure that the regulations generally are consistent with the regulations and policies of the Federal Deposit Insurance Corporation adopted pursuant to the Federal Deposit Insurance Act.

''(d) DEFINITIONS.—For purposes of this section, the terms 'Federal branch', 'Federal agency', and 'foreign bank' have the same meanings as in section 1(b) of the International Banking Act of 1978.''.

SEC. 907. BANKRUPTCY LAW AMENDMENTS.

(a) DEFINITIONS OF FORWARD CONTRACT, REPURCHASE AGREEMENT, SECURITIES CLEARING AGENCY, SWAP AGREEMENT, COMMODITY CONTRACT, AND SECURITIES CONTRACT.—Title 11, United States Code, is amended—

(1) in section 101—

(A) in paragraph (25)—

(i) by striking ''means a contract'' and inserting ''means—

''(A) a contract'';

(ii) by striking '', or any combination thereof or option thereon;'' and inserting '', or any other similar agreement;''; and

(iii) by adding at the end the following:

''(B) 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 an agreement or transaction that is not a forward contract under this paragraph, except that such master agreement shall be considered to be a forward contract under this paragraph only with respect to each agreement or transaction under such master agreement that is referred to in subparagraph (A), (B), or (C); or

''(E) any security agreement or arrangement, or other credit enhancement related to any agreement or transaction referred to in subparagraph (A), (B), (C), or (D), including any guarantee 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'' and inserting ''at any time before'';

(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, interests in mortgage related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities (defined as a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development), or 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 bankers' acceptances, securities, mortgage loans, or interests, with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptance, securities, mortgage loans, or interests of the kind described in this clause, at a date certain not later than 1 year after such transfer or on demand, against the transfer of funds;

''(ii) any combination of agreements or transactions referred to in clauses (i) and (iii);

''(iii) an option to enter into an agreement or transaction referred to in clause (i) or (ii);

''(iv) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), or (iii), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a repurchase agreement under this paragraph, except that such master agreement shall be considered to be a repurchase agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), or (iii); or

''(v) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in clause (i), (ii), (iii), or (iv), including any guarantee or reimbursement obligation by or to a repo 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 of this title; and

''(B) does not include a repurchase obligation under a participation in a commercial mortgage loan;'';

(D) in paragraph (48), by inserting '', or exempt from such registration under such section pursuant to an order of the Securities and Exchange Commission,'' after ''1934''; and

(E) by amending paragraph (53B) to read as follows:

''(53B) 'swap agreement'—

''(A) means—

''(i) any agreement, including the terms and conditions incorporated by reference in such agreement, which is—

''(I) an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap;

''(II) a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement;

''(III) a currency swap, option, future, or forward agreement;

''(IV) an equity index or equity swap, option, future, or forward agreement;

''(V) a debt index or debt swap, option, future, or forward agreement;

''(VI) a total return, credit spread or credit swap, option, future, or forward agreement;

''(VII) a commodity index or a commodity swap, option, future, or forward agreement; or

''(VIII) a weather swap, weather derivative, or weather option;

''(ii) any agreement or transaction that is similar to any other agreement or transaction referred to in this paragraph and that—

''(I) is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference therein); and

''(II) is a forward, swap, 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 subparagraph;

''(iv) any option to enter into an agreement or transaction referred to in this subparagraph;

''(v) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), or (iv), together with all supplements to any such master agreement, and without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this paragraph, except that the master agreement shall be considered to be a swap agreement under this paragraph only with respect to each agreement or transaction 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 Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000;'';

(2) in section 741(7), by striking paragraph (7) and inserting the following:

''(7) 'securities contract'—

''(A) means—

''(i) a contract for the purchase, sale, or loan of a security, a 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 an interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

''(ii) any option entered into on a national securities exchange relating to foreign currencies;

''(iii) the guarantee by or to any securities clearing agency of a settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, or mortgage loans or interests therein (including any interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

''(iv) any margin loan;

''(v) any other agreement or transaction that is similar to an agreement or transaction 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 transaction referred to in this subparagraph;

''(viii) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this subparagraph, except that such master agreement shall be considered to be a securities contract under this subparagraph only with respect to each agreement or transaction under such master agreement that is referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii); or

''(ix) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this subparagraph, including any guarantee or reimbursement obligation by or to a stockbroker, securities clearing agency, financial institution, or financial participant 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 transaction, measured in accordance with section 562; and

''(B) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan;''; and

(3) in section 761(4)—

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

(B) by adding at the end the following:

''(F) any other agreement or transaction that is similar to an agreement or transaction referred to in this paragraph;

''(G) any combination of the agreements or transactions referred to in this paragraph;

''(H) any option to enter into an agreement or transaction referred to in this paragraph;

''(I) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H), together with all supplements to such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this paragraph, except that the master agreement shall be considered to be a commodity contract under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H); or

''(J) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this paragraph, including any guarantee or reimbursement obligation by or to a commodity broker or financial participant in connection with any 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 section 562;''.

(b) DEFINITIONS OF FINANCIAL INSTITUTION, FINANCIAL PARTICIPANT, AND FORWARD CONTRACT MERCHANT.—Section 101 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 savings bank, industrial savings bank, savings and loan association, trust company, federally-insured credit union, or receiver, liquidating agent, or conservator for such entity and, when any such Federal reserve bank, receiver, liquidating agent, conservator or entity is acting as agent or custodian for a customer in connection with a securities contract (as defined in section 741) such customer; or

''(B) in connection with a securities contract (as defined in section 741) an investment company registered under the Investment Company Act of 1940;'';

(2) by inserting after paragraph (22) the following:

''(22A) 'financial participant' means—

''(A) an entity that, at the time it enters into a securities contract, commodity contract, swap agreement, repurchase agreement, or forward contract, or at the time of the date of the filing of the petition, has one or more agreements or transactions described in paragraph (1), (2), (3), (4), (5), or (6) of section 561(a) with the debtor or any other entity (other than an affiliate) of a total gross dollar value of not less than $1,000,000,000 in notional or actual principal amount outstanding on any day during the previous 15-month period, or has gross mark-to-market positions of not less than $100,000,000 (aggregated across counterparties) in one or more such agreements or transactions with the debtor or any other entity (other than an affiliate) on any day during the previous 15-month period; or

''(B) a clearing organization (as defined in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991);''; and

(3) by striking paragraph (26) and inserting the following:

''(26) 'forward contract merchant' means a Federal reserve bank, or an entity the business of which consists in whole or in part of entering into forward contracts as or with merchants in a commodity (as defined in section 761) or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade;''.

(c) DEFINITION OF MASTER NETTING AGREEMENT AND MASTER NETTING AGREEMENT PARTICIPANT.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (38) the following new paragraphs:

''(38A) 'master netting agreement'—

''(A) means an agreement providing for the exercise of rights, including rights of netting, setoff, liquidation, termination, acceleration, or close out, 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 any security agreement or arrangement or other credit enhancement related to one or more of the foregoing, including any guarantee or reimbursement obligation related to 1 or more of the foregoing; and

''(B) if the agreement contains provisions relating to agreements or transactions that are not contracts described in paragraphs (1) through (5) of section 561(a), shall be deemed to be a master netting agreement only with respect to those agreements or transactions that are described in any one or more of paragraphs (1) through (5) of section 561(a);

''(38B) 'master netting agreement participant' means an entity that, at any time before the date of the filing of the petition, is a party to an outstanding master netting agreement with the debtor;''.

(d) SWAP AGREEMENTS, SECURITIES CONTRACTS, COMMODITY CONTRACTS, FORWARD CONTRACTS, REPURCHASE AGREEMENTS, AND MASTER NETTING AGREEMENTS UNDER THE AUTOMATIC-STAY.—

(1) IN GENERAL.—Section 362(b) of title 11, United States Code, as amended by sections 224, 303, 311, 401, and 718, is amended—

(A) in paragraph (6), by inserting '', pledged to, under the control of,'' after ''held by'';

(B) in paragraph (7), by inserting '', pledged to, under the control of,'' after ''held by'';

(C) by striking paragraph (17) and inserting the following:

''(17) under subsection (a), of the setoff by a swap participant or financial participant of a mutual debt and claim under or in connection with one or more swap agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with any swap agreement against any payment due to the debtor from the swap participant or financial participant under or in connection with any swap agreement or against cash, securities, or other property held by, pledged to, under the control of, or due from such swap participant or financial participant to margin, guarantee, secure, or settle any swap agreement;''; and

(D) by inserting after paragraph (26) the following:

''(27) under subsection (a), of the setoff by a 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 agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with such agreements or any contract or agreement subject to such agreements against any payment due to the debtor from such master netting agreement participant under or in connection with such agreements or any contract or agreement subject to such agreements or against cash, securities, or other property held by, pledged to, under the control of, or due from such master netting agreement participant to margin, guarantee, secure, or settle such agreements or any contract or agreement subject to such agreements, to the extent 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; and''.

(2) LIMITATION.—Section 362 of title 11, United States Code, as amended by sections 106, 305, 311, and 441, is amended by adding at the end the following:

''(o) The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), (17), or (27) of subsection (b) shall not be stayed by any order of a court or administrative agency in any proceeding under this title.''.

(e) LIMITATION OF AVOIDANCE POWERS UNDER MASTER NETTING AGREEMENT.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (g) (as added by section 103 of Public Law 101–311)—

(A) by striking ''under a swap agreement'';

(B) by striking ''in connection with a swap agreement'' and inserting ''under or in connection with any swap agreement''; and

(C) by inserting ''or financial participant'' after ''swap participant''; and

(2) by adding at the end the following:

''(j) Notwithstanding sections 544, 545, 547, 548(a)(1)(B), and 548(b) the trustee may not avoid a transfer made by or to a master netting agreement participant under or in connection with any master netting agreement or any individual contract covered thereby that is made before the commencement of the case, except under section 548(a)(1)(A) and except to the extent that the trustee could otherwise avoid such a transfer made under an individual contract covered by such master netting agreement.''.

(f) FRAUDULENT TRANSFERS OF MASTER NETTING AGREEMENTS.—Section 548(d)(2) of title 11, United States Code, is amended—

(1) in subparagraph (C), by striking ''and'' at the end;

(2) in subparagraph (D), by striking the period and inserting ''; and''; and

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

''(E) a master netting agreement participant that receives a transfer in connection with a master netting agreement or any individual contract covered thereby takes for value to the extent of such transfer, except that, with respect to a transfer under any individual contract covered thereby, to the extent that such master netting agreement participant otherwise did not take (or is otherwise not deemed to have taken) such transfer for value.''.

(g) TERMINATION OR ACCELERATION OF SECURITIES CONTRACTS.—Section 555 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

''§ 555. Contractual right to liquidate, terminate, or accelerate a securities contract'';

and

(2) in the first sentence, by striking ''liquidation'' and inserting ''liquidation, termination, or acceleration''.

(h) TERMINATION OR ACCELERATION OF COMMODITIES OR FORWARD CONTRACTS.—Section 556 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

''§ 556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract'';

(2) in the first sentence, by striking ''liquidation'' 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 Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange 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,''.

(i) TERMINATION OR ACCELERATION OF REPURCHASE AGREEMENTS.—Section 559 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

''§ 559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement'';

(2) in the first sentence, by striking ''liquidation'' and inserting ''liquidation, termination, or acceleration''; and

(3) in the third 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 Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange 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,''.

(j) LIQUIDATION, TERMINATION, OR ACCELERATION OF SWAP AGREEMENTS.—Section 560 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

''§ 560. Contractual right to liquidate, terminate, or accelerate a swap agreement'';

(2) in the first sentence, by striking ''termination of a swap agreement'' and inserting ''liquidation, termination, or acceleration of one or more swap agreements'';

(3) by striking ''in connection with any swap agreement'' and inserting ''in connection with the termination, liquidation, or acceleration of one or more swap agreements''; and

(4) 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 Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange 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,''.

(k) LIQUIDATION, TERMINATION, ACCELERATION, OR OFFSET UNDER A MASTER NETTING AGREEMENT AND ACROSS CONTRACTS.—

(1) IN GENERAL.—Title 11, United States Code, is amended by inserting after section 560 the following:

''§ 561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15

''(a) Subject to subsection (b), the exercise of any contractual right, because of a condition of the kind specified in section 365(e)(1), to cause the termination, liquidation, or acceleration of or to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more (or the termination, liquidation, or acceleration of one or more)—

''(1) securities contracts, as defined in section 741(7);

''(2) commodity contracts, as defined in section 761(4);

''(3) forward contracts;

''(4) repurchase agreements;

''(5) swap agreements; or

''(6) master netting agreements,

shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by any order of a court or administrative agency in any proceeding under this title.

''(b)(1) A party may exercise a contractual right described in subsection (a) to terminate, liquidate, or accelerate only to the extent that such party could exercise such a right under section 555, 556, 559, or 560 for each individual contract covered by the master netting agreement in issue.

''(2) If a debtor is a commodity broker subject to subchapter IV of chapter 7—

''(A) a party may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a) except to the extent that the party has positive net equity in the commodity accounts at the debtor, as calculated under such subchapter; and

''(B) another commodity broker may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract entered into or held on behalf of a customer of the debtor and traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a).

''(3) No provision of subparagraph (A) or (B) of paragraph (2) shall prohibit the offset of claims and obligations that arise under—

''(A) a cross-margining agreement or similar arrangement that has been approved by the Commodity Futures Trading Commission or submitted to the Commodity Futures Trading Commission under paragraph (1) or (2) of section 5c(c) of the Commodity Exchange Act and has not been abrogated or rendered ineffective by the Commodity Futures Trading Commission; or

''(B) any other netting agreement between a clearing organization (as defined in section 761) and another entity that has been approved by the Commodity Futures Trading Commission.

''(c) 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 Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange 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, whether or not evidenced in writing, arising under common law, under law merchant, or by reason of normal business practice.

''(d) Any provisions of this title relating to securities contracts, commodity contracts, forward contracts, repurchase agreements, swap agreements, or master netting agreements shall apply in a case under chapter 15, so that enforcement of contractual provisions of such contracts and agreements in accordance with their terms will not be stayed or otherwise limited by operation of any provision of this title or by order of a court in any case under this title, and to limit avoidance powers to the same extent as in a proceeding under chapter 7 or 11 of this title (such enforcement not to be limited based on the presence or absence of assets of the debtor in the United States).''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 560 the following:

''561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15.''.

(l) COMMODITY BROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 766 the following:

''§ 767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

''Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.''.

(m) STOCKBROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 752 the following:

''§ 753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

''Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.''.

(n) SETOFF.—Section 553 of title 11, United States Code, is amended—

(1) in subsection (a)(2)(B)(ii), by inserting before the semicolon the following: ''(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)'';

(2) in subsection (a)(3)(C), by inserting before the period the following: ''(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)''; and

(3) in subsection (b)(1), by striking ''362(b)(14),'' and inserting ''362(b)(17), 362(b)(27), 555, 556, 559, 560, 561,''.

(o) SECURITIES CONTRACTS, COMMODITY CONTRACTS, AND FORWARD CONTRACTS.—Title 11, United States Code, is amended—

(1) in section 362(b)(6), by striking ''financial institutions,'' each place such term appears and inserting ''financial institution, financial participant,'';

(2) in sections 362(b)(7) and 546(f), by inserting ''or financial participant'' after ''repo participant'' each place such term appears;

(3) in section 546(e), by inserting ''financial participant,'' after ''financial institution,'';

(4) in section 548(d)(2)(B), by inserting ''financial participant,'' after ''financial institution,'';

(5) in section 548(d)(2)(C), by inserting ''or financial participant'' after ''repo participant'';

(6) in section 548(d)(2)(D), by inserting ''or financial participant'' after ''swap participant'';

(7) in section 555—

(A) by inserting ''financial participant,'' after ''financial institution,''; and

(B) by striking the second sentence and inserting the following: ''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 Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange 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, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.'';

(8) in section 556, by inserting '', financial participant,'' after ''commodity broker'';

(9) in section 559, by inserting ''or financial participant'' after ''repo participant'' each place such term appears; and

(10) in section 560, by inserting ''or financial participant'' after ''swap participant''.

(p) CONFORMING AMENDMENTS.—Title 11, United States Code, is amended—

(1) in the table of sections for chapter 5—

(A) by amending the items relating to sections 555 and 556 to read as follows:

''555. Contractual right to liquidate, terminate, or accelerate a securities contract.

''556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract.'';

and

(B) by amending the items relating to sections 559 and 560 to read as follows:

''559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement.

''560. Contractual right to liquidate, terminate, or accelerate a swap agreement.'';

and

(2) in the table of sections for chapter 7—

(A) by inserting after the item relating to section 766 the following:

''767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.'';

and

(B) by inserting after the item relating to section 752 the following:

''753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.''.

SEC. 908. RECORDKEEPING REQUIREMENTS.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended by adding at the end the following new subparagraph:

''(H) RECORDKEEPING REQUIREMENTS.—The Corporation, in consultation with the appropriate Federal banking agencies, may prescribe regulations requiring 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 section 32).''.

(b) INSURED CREDIT UNIONS.—Section 207(c)(8) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)) is amended by adding at the end the following new subparagraph:

''(H) RECORDKEEPING REQUIREMENTS.—The Board, in consultation with the appropriate Federal banking agencies, may prescribe regulations requiring more detailed recordkeeping by any insured credit union with respect to qualified financial contracts (including market valuations) only if such insured credit union is in a troubled condition (as such term is defined by the Board pursuant to section 212).''.

SEC. 909. EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.

Section 13(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)(2)) is amended to read as follows:

''(2) EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.—An agreement to provide for the lawful collateralization of—

''(A) deposits of, or other credit extension by, a Federal, State, or local governmental entity, or of any depositor referred to in section 11(a)(2), including an agreement to provide collateral in lieu of a surety bond;

''(B) bankruptcy estate funds pursuant to section 345(b)(2) of title 11, United States Code;

''(C) extensions of credit, including any overdraft, from a Federal reserve bank or Federal home loan bank; or

''(D) one or more qualified financial contracts, as defined in section 11(e)(8)(D),

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, delivery, or substitution of the collateral made in accordance with such agreement.''.

SEC. 910. DAMAGE MEASURE.

(a) IN GENERAL.—Title 11, United States Code, is amended—

(1) by inserting after section 561, as added by section 907, the following:

''§ 562. Timing of damage measurement in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, and master netting agreements

''(a) If the trustee rejects a swap agreement, securities contract (as defined in section 741), forward contract, commodity contract (as defined in section 761), repurchase agreement, or master netting agreement pursuant to section 365(a), or 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 or dates of such liquidation, termination, or acceleration.

''(b) If there are not any commercially reasonable determinants of value as of any date referred to in paragraph (1) or (2) of subsection (a), damages shall be measured as of the earliest subsequent date or dates on which there are commercially reasonable determinants of value.

''(c) For the purposes of subsection (b), if damages are not measured as of the date or dates of rejection, liquidation, termination, or acceleration, and the forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant or the trustee objects to the timing of the measurement of damages—

''(1) the trustee, in the case of an objection by a forward contract merchant, stockbroker, financial institution, securities

clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant; or

''(2) the forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant, in the case of an objection by the trustee,

has the burden of proving that there were no commercially reasonable determinants of value as of such date or dates.''; and

(2) in the table of sections for chapter 5, by inserting after the item relating to section 561 (as added by section 907) the following new item:

''562. Timing of damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements.''.

(b) CLAIMS ARISING FROM REJECTION.—Section 502(g) of title 11, United States Code, is amended—

(1) by inserting ''(1)'' after ''(g)''; and

(2) by adding at the end the following:

''(2) A claim for damages calculated in accordance with section 562 shall be allowed under subsection (a), (b), or (c), or disallowed under subsection (d) or (e), as if such claim had arisen before the date of the filing of the petition.''.

SEC. 911. SIPC STAY.

Section 5(b)(2) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(b)(2)) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FROM STAY.—

''(i) Notwithstanding section 362 of title 11, United States Code, neither the filing of an application under subsection (a)(3) nor any order or decree obtained by SIPC from the court shall operate as a stay of any contractual rights of a creditor to liquidate, terminate, or accelerate a securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, or master netting agreement, as those terms are defined in sections 101, 741, and 761 of title 11, United States Code, to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more of such contracts or agreements, or to foreclose on any cash collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements.

''(ii) Notwithstanding clause (i), such application, order, or decree may operate as a stay of the foreclosure on, or disposition of, securities collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements, securities sold by the debtor under a repurchase agreement, or securities lent under a securities lending agreement.

''(iii) As used in this subparagraph, the term 'contractual right' includes a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency, a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.''.

TITLE X—PROTECTION OF FAMILY FARMERS AND FAMILY FISHERMEN

SEC. 1001. PERMANENT REENACTMENT OF CHAPTER 12.

(a) REENACTMENT.—

(1) IN GENERAL.—Chapter 12 of title 11, United States Code, as reenacted by section 149 of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277), and as in effect on June 30, 2005, is hereby reenacted.

(2) EFFECTIVE DATE OF REENACTMENT.—Paragraph (1) shall take effect on July 1, 2005.

(b) AMENDMENTS—Chapter 12 of title 11, United States Code, as reenacted by subsection (a), is amended by this Act.

(c) CONFORMING AMENDMENT.—Section 302 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended by striking subsection (f).

SEC. 1002. DEBT LIMIT INCREASE.

Section 104(b) of title 11, United States Code, as amended by section 226, is amended by inserting ''101(18),'' after ''101(3),'' each place it appears.

SEC. 1003. CERTAIN CLAIMS OWED TO GOVERNMENTAL UNITS.

(a) CONTENTS OF PLAN.—Section 1222(a)(2) of title 11, United States Code, as amended by section 213, is amended to read as follows:

''(2) provide for the full payment, in deferred cash payments, of all claims entitled to priority under section 507, unless—

''(A) the claim is a claim owed to a governmental unit that arises as a result of the sale, transfer, exchange, or other disposition of any farm asset used in the debtor's farming operation, in which case the claim shall be treated as an unsecured claim that is not entitled to priority under section 507, but the debt shall be treated in such manner only if the debtor receives a discharge; or

''(B) the holder of a particular claim agrees to a different treatment of that claim;''.

(b) SPECIAL NOTICE PROVISIONS.—Section 1231(b) of title 11, United States Code, as so designated by section 719, is amended by striking ''a State or local governmental unit'' and inserting ''any governmental unit''.

(c) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act and shall not apply with respect to cases commenced under title 11 of the United States Code before such date.

SEC. 1004. DEFINITION OF FAMILY FARMER.

Section 101(18) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking ''$1,500,000'' and inserting ''$3,237,000''; and

(B) by striking ''80'' and inserting ''50''; and

(2) in subparagraph (B)(ii)—

(A) by striking ''$1,500,000'' and inserting ''$3,237,000''; 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 ''for the taxable year preceding the taxable year'' and inserting the following:

''for—

''(i) the taxable year preceding; or

''(ii) each of the 2d and 3d taxable years preceding;

the taxable year''.

SEC. 1006. PROHIBITION OF RETROACTIVE ASSESSMENT OF DISPOSABLE INCOME.

(a) CONFIRMATION OF PLAN.—Section 1225(b)(1) of title 11, United States Code, is amended—

(1) in subparagraph (A) by striking ''or'' at the end;

(2) in subparagraph (B) by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(C) the value of the property to be distributed under the plan in the 3-year period, or such longer period as the court may approve under section 1222(c), beginning on the date that the first distribution is due under the plan is not less than the debtor's projected disposable income for such period.''.

(b) MODIFICATION OF PLAN.—Section 1229 of title 11, United States Code, is amended by adding at the end the following:

''(d) A plan may not be modified under this section—

''(1) to increase the amount of any payment due before the plan as modified becomes the plan;

''(2) by anyone except the debtor, based on an increase in the debtor's disposable income, to increase the amount of payments to unsecured creditors required for a particular month so that the aggregate of such payments exceeds the debtor's disposable income for such month; or

''(3) in the last year of the plan by anyone except the debtor, to require payments that would leave the debtor with insufficient funds to carry on the farming operation after the plan is completed.''.

SEC. 1007. FAMILY FISHERMEN.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (7) the following:

''(7A) 'commercial fishing operation' means—

''(A) the catching or harvesting of fish, shrimp, lobsters, urchins, seaweed, shellfish, or other aquatic species or products of such species; or

''(B) for purposes of section 109 and chapter 12, aquaculture activities consisting of raising for market any species or product described in subparagraph (A);

''(7B) 'commercial fishing vessel' means a vessel used by a family fisherman to carry out a commercial fishing operation;''; and

(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—

''(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 or such individual and spouse, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such individual or such individual and spouse; and

''(ii) who receive from such commercial fishing operation more than 50 percent of such individual's or such individual's and spouse's gross 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—

''(I) 1 family that conducts the commercial fishing operation; or

''(II) 1 family and the relatives of the members of such family, and such family or such relatives conduct the commercial fishing operation; and

''(ii)(I) more than 80 percent of the value of its assets consists of assets related to the commercial fishing operation;

''(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 1 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;

''(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;''.

(b) WHO MAY BE A DEBTOR.—Section 109(f) of title 11, United States Code, is amended by inserting ''or family fisherman'' after ''family farmer''.

(c) CHAPTER 12.—Chapter 12 of title 11, United States Code, is amended—

(1) in the chapter heading, by inserting ''**OR FISHERMAN**'' after ''**FAMILY FARMER**'';

(2) in section 1203, by inserting ''or commercial fishing operation'' after ''farm''; and

(3) in section 1206, by striking ''if the property is farmland or farm equipment'' and inserting ''if the property is farmland, farm equipment, or property used to carry out a commercial fishing operation (including a commercial fishing vessel)''.

(d) CLERICAL AMENDMENT.—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 ..... 1201''.

(e) APPLICABILITY.—Nothing in this section shall change, affect, or amend the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.).

TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

SEC. 1101. DEFINITIONS.

(a) HEALTH CARE BUSINESS DEFINED.—Section 101 of title 11, United States Code, as amended by section 306, is amended—

(1) by redesignating paragraph (27A) as paragraph (27B); and

(2) by inserting after paragraph (27) the following:

''(27A) 'health care business'—

''(A) means any public or private entity (without regard to whether that entity is organized for profit or not for profit) that is primarily engaged in offering to the general public facilities and services for—

''(i) the diagnosis or treatment of injury, deformity, or disease; and

''(ii) surgical, drug treatment, psychiatric, or obstetric care; and

''(B) includes—

''(i) any—

''(I) general or specialized hospital;

''(II) 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

''(ii) any long-term care facility, including any—

''(I) skilled nursing facility;

''(II) intermediate care facility;

''(III) assisted living facility;

''(IV) home for the aged;

''(V) domiciliary care facility; and

''(VI) health care institution that is related to a facility referred to in subclause (I), (II), (III), (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 individual who obtains or receives services from a health care business;

''(40B) 'patient records' means any written document relating to a patient or a record recorded 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:

''(1) The trustee shall—

''(A) promptly publish notice, in 1 or more appropriate newspapers, that if patient records are not claimed by the patient or an insurance provider (if applicable law permits the insurance provider to make that claim) by the date that is 365 days after the date of that notification, 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 most recent known address of that patient, or a family member or contact person for that patient, and to the appropriate insurance carrier an appropriate notice regarding the claiming or disposing of patient records.

''(2) If, after providing the notification under paragraph (1), patient records are not claimed during the 365-day period described under that paragraph, the trustee shall mail, by certified mail, at the end of such 365-day period 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.

''(3) If, following the 365-day period described in paragraph (2) and after providing the notification under paragraph (1), patient records are not claimed by a patient or insurance provider, or request is not granted by a Federal agency to deposit such records with that agency, the trustee shall destroy those records by—

''(A) if the records are written, shredding or burning the records; or

''(B) if the records are magnetic, optical, or other electronic records, by otherwise destroying those records so that those records cannot be retrieved.''.

(b) CLERICAL AMENDMENT.—The table of sections for 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.''.

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 section 445, is amended by adding at the end the following:

''(8) the actual, necessary costs and expenses of closing a health care business incurred by a trustee or by a Federal agency (as 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 351; or

''(B) in connection with transferring patients from the health care business that is in the process of being closed to another health care business; and''.

SEC. 1104. APPOINTMENT OF OMBUDSMAN TO ACT AS PATIENT ADVOCATE.

(a) OMBUDSMAN TO ACT AS PATIENT ADVOCATE.—

(1) APPOINTMENT OF OMBUDSMAN.—Title 11, United States Code, as amended by section 232, is amended by inserting after section 332 the following:

''§ 333. Appointment of patient care ombudsman

''(a)(1) If the debtor in a case under chapter 7, 9, or 11 is a health care business, the court shall order, not later than 30 days after the commencement of the case, the appointment of an ombudsman to monitor the quality of patient care and to represent the interests of the patients of the health care business unless the court finds that the appointment of such ombudsman is not necessary for the protection of patients under the specific facts of the case.

''(2)(A) If the court orders the appointment of an ombudsman under paragraph (1), the United States trustee shall appoint 1 disinterested person (other than the United States trustee) to serve as such ombudsman.

''(B) If the debtor is a health care business that provides long-term care, then the United States trustee may appoint the State Long-Term Care Ombudsman appointed under the Older Americans Act of 1965 for the State in which the case is pending to serve as the ombudsman required by paragraph (1).

''(C) If the United States trustee does not appoint a State Long-Term Care Ombudsman under subparagraph (B), the court shall notify the State Long-Term Care Ombudsman appointed under the Older Americans Act of 1965 for the State in which the case is pending, of the name and address of the person who is appointed under subparagraph (A).

''(b) An ombudsman appointed under subsection (a) shall—

''(1) monitor the quality of patient care provided to patients of the debtor, to the extent necessary under the circumstances, including interviewing patients and physicians;

''(2) not later than 60 days after the date of appointment, and not less frequently than at 60-day intervals thereafter, report to the court after notice to the parties in interest, at a hearing or in writing, regarding the quality of patient care provided to patients of the debtor; and

''(3) if such ombudsman determines that the quality of patient care provided to patients of the debtor is declining significantly or is otherwise being materially compromised, file with the court a motion or a written report, with notice to the parties in interest immediately upon making such determination.

''(c)(1) An ombudsman appointed under subsection (a) shall maintain any information obtained by such ombudsman under this section that relates to patients (including information relating to patient records) as confidential information. Such ombudsman may not review confidential patient records unless the court approves such review in advance and imposes restrictions on such ombudsman to protect the confidentiality of such records.

''(2) An ombudsman appointed under subsection (a)(2)(B) shall have access to patient records consistent with authority of such ombudsman under the Older Americans Act of 1965 and under non-Federal laws governing the State Long-Term Care Ombudsman program.''.

(2) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 3 of title 11, United States Code, as amended by section 232, is amended by adding at the end the following:

''333. Appointment of ombudsman.''.

(b) COMPENSATION OF OMBUDSMAN.—Section 330(a)(1) of title 11, United States Code, is amended—

(1) in the matter preceding subparagraph (A), by inserting ''an ombudsman appointed under section 333, or'' before ''a professional person''; and

(2) in subparagraph (A), by inserting ''ombudsman,'' before ''professional person''.

SEC. 1105. DEBTOR IN POSSESSION; DUTY OF TRUSTEE TO TRANSFER PATIENTS.

(a) IN GENERAL.—Section 704(a) of title 11, United States Code, as amended by sections 102, 219, and 446, is amended by adding at the end the following:

''(12) use all reasonable and best efforts to transfer patients from a health care business that is in the process of being closed to an appropriate health care business that—

''(A) is in the vicinity of the health care business that is closing;

''(B) provides the patient with services that are substantially similar to those provided by the health care business that is in the process of being closed; and

''(C) maintains a reasonable quality of care.''.

(b) CONFORMING AMENDMENT.—Section 1106(a)(1) of title 11, United States Code, as amended by section 446, is amended by striking ''and (11)'' and inserting ''(11), and (12)''.

SEC. 1106. EXCLUSION FROM PROGRAM PARTICIPATION NOT SUBJECT TO AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (27), as amended by sections 224, 303, 311, 401, 718, and 907, the following:

''(28) under subsection (a), of the exclusion by the Secretary of Health and Human Services of the debtor from participation in the medicare program or any other Federal health care program (as defined in section 1128B(f) of the Social Security Act pursuant to title XI or XVIII of such Act).''.

TITLE XII—TECHNICAL AMENDMENTS

SEC. 1201. DEFINITIONS.

Section 101 of title 11, United States Code, as amended by this Act, is further amended—

(1) by striking ''In this title—'' and inserting ''In this title the following definitions shall apply:'';

(2) in each paragraph (other than paragraph (54A)), by inserting ''The term'' after the paragraph designation;

(3) in paragraph (35)(B), by striking ''paragraphs (21B) and (33)(A)'' and inserting ''paragraphs (23) and (35)'';

(4) in each of paragraphs (35A), (38), and (54A), by striking ''; and'' at the end and inserting a period;

(5) in paragraph (51B)—

(A) by inserting ''who is not a family farmer'' after ''debtor'' the first place it appears; and

(B) by striking ''thereto having aggregate'' and all that follows through the end of the paragraph and inserting a semicolon;

(6) by striking paragraph (54) and inserting the following:

''(54) The term 'transfer' means—

''(A) the creation of a lien;

''(B) the retention of title as a security interest;

''(C) the foreclosure of a debtor's equity of redemption; or

''(D) each mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—

''(i) property; or

''(ii) an interest in property;'';

(7) in paragraph (54A)—

(A) by striking ''the term'' and inserting ''The term''; and

(B) by indenting the left margin of paragraph (54A) 2 ems to the right; and

(8) in each of paragraphs (1) through (35), in each of paragraphs (36), (37), (38A), (38B) and (39A), and in each of paragraphs (40) through (55), by striking the semicolon at the end and inserting a period.

SEC. 1202. ADJUSTMENT OF DOLLAR AMOUNTS.

Section 104(b) of title 11, United States Code, as amended by this Act, is further amended—

(1) by inserting ''101(19A),'' after ''101(18),'' each place it appears;

(2) by inserting ''522(f)(3) and 522(f)(4),'' after ''522(d),'' each place it appears;

(3) by inserting ''541(b), 547(c)(9),'' after ''523(a)(2)(C),'' each place it appears;

(4) in paragraph (1), by striking ''and 1325(b)(3)'' and inserting ''1322(d), 1325(b), and 1326(b)(3) of this title and section 1409(b) of title 28''; and

(5) in paragraph (2), by striking ''and 1325(b)(3) of this title'' and inserting ''1322(d), 1325(b), and 1326(b)(3) of this title and section 1409(b) of title 28''.

SEC. 1203. EXTENSION OF TIME.

Section 108(c)(2) of title 11, United States Code, is amended by striking ''922'' and all that follows through ''or'', and inserting ''922, 1201, or''.

SEC. 1204. TECHNICAL AMENDMENTS.

Title 11, United States Code, is amended—

(1) in section 109(b)(2), by striking ''subsection (c) or (d) of''; and

(2) in section 552(b)(1), by striking ''product'' each place it appears and inserting ''products''.

SEC. 1205. PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.

Section 110(j)(4) of title 11, United States Code, as so redesignated by section 221, is amended by striking ''attorney's'' and inserting ''attorneys' ''.

SEC. 1206. LIMITATION ON COMPENSATION OF PROFESSIONAL PERSONS.

Section 328(a) of title 11, United States Code, is amended by inserting ''on a fixed or percentage fee basis,'' after ''hourly basis,''.

SEC. 1207. EFFECT OF CONVERSION.

Section 348(f)(2) of title 11, United States Code, is amended by inserting ''of the estate'' after ''property'' the first place it appears.

SEC. 1208. ALLOWANCE OF ADMINISTRATIVE EXPENSES.

Section 503(b)(4) of title 11, United States Code, is amended by inserting ''subparagraph (A), (B), (C), (D), or (E) of'' before ''paragraph (3)''.

SEC. 1209. EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, as amended by sections 215 and 314, is amended—

(1) by transferring paragraph (15), as added by section 304(e) of Public Law 103–394 (108 Stat. 4133), so as to insert such paragraph after subsection (a)(14A);

(2) in subsection (a)(9), by striking ''motor vehicle'' and inserting ''motor vehicle, vessel, or aircraft''; and

(3) in subsection (e), by striking ''a insured'' and inserting ''an insured''.

SEC. 1210. EFFECT OF DISCHARGE.

Section 524(a)(3) of title 11, United States Code, is amended by striking ''section 523'' and all that follows through ''or that'' and inserting ''section 523, 1228(a)(1), or 1328(a)(1), or that''.

SEC. 1211. PROTECTION AGAINST DISCRIMINATORY TREATMENT.

Section 525(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by inserting ''student'' before ''grant'' the second place it appears; and

(2) in paragraph (2), by striking ''the program operated under part B, D, or E of'' and inserting ''any program operated under''.

SEC. 1212. PROPERTY OF THE ESTATE.

Section 541(b)(4)(B)(ii) of title 11, United States Code, is amended by inserting ''365 or'' before ''542''.

SEC. 1213. PREFERENCES.

(a) IN GENERAL.—Section 547 of title 11, United States Code, as amended by section 201, is amended—

(1) in subsection (b), by striking ''subsection (c)'' and inserting ''subsections (c) and (i)''; and

(2) by adding at the end the following:

''(i) If the trustee avoids under subsection (b) a transfer made between 90 days and 1 year before the date of the filing of the petition, by the debtor to an entity that is not an insider for the benefit of a creditor that is an insider, such 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. 1214. POSTPETITION TRANSACTIONS.

Section 549(c) of title 11, United States Code, is amended—

(1) by inserting ''an interest in'' after ''transfer of'' each place it appears;

(2) by striking ''such property'' and inserting ''such real property''; and

(3) by striking ''the interest'' and inserting ''such interest''.

SEC. 1215. DISPOSITION OF PROPERTY OF THE ESTATE.

Section 726(b) of title 11, United States Code, is amended by striking ''1009,''.

SEC. 1216. GENERAL PROVISIONS.

Section 901(a) of title 11, United States Code, is amended by inserting ''1123(d),'' after ''1123(b),''.

SEC. 1217. ABANDONMENT OF RAILROAD LINE.

Section 1170(e)(1) of title 11, United States Code, is amended by striking ''section 11347'' and inserting ''section 11326(a)''.

SEC. 1218. CONTENTS OF PLAN.

Section 1172(c)(1) of title 11, United States Code, is amended by striking ''section 11347'' and inserting ''section 11326(a)''.

SEC. 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

(2) by striking ''This subsection'' and inserting ''Subsection (c) and this subsection''.

SEC. 1220. KNOWING DISREGARD OF BANKRUPTCY LAW OR RULE.

Section 156(a) of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting ''(1) the term'' before '' 'bankruptcy''; and

(B) by striking the period at the end and inserting ''; and''; and

(2) in the second undesignated paragraph—

(A) by inserting ''(2) the term'' before '' 'document''; and

(B) by striking ''this title'' and inserting ''title 11''.

SEC. 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 moneyed, business, or commercial corporation or trust; and

''(2) to the extent not inconsistent with any relief granted under subsection (c), (d), (e), or (f) of section 362.''.

(b) CONFIRMATION OF PLAN OF REORGANIZATION.—Section 1129(a) of title 11, United States Code, as amended by sections 213 and 321, is amended by adding at the end the following:

''(16) All transfers of property of the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust.''.

(c) TRANSFER OF PROPERTY.—Section 541 of title 11, United States Code, as amended by section 225, is amended by adding at the end the following:

''(f) Notwithstanding any other provision of this title, property that is held by a debtor that is a corporation described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code may be transferred to an entity that is not such a corporation, but only under the same conditions as would apply if the debtor had not filed a case under this title.''.

(d) APPLICABILITY.—The amendments made by this section shall apply to a case pending under title 11, United States Code, on the date of enactment of this Act, or filed under that title on or after that date of enactment, except that the court shall not confirm a plan under chapter 11 of title 11, United States Code, without considering whether this section would substantially affect the rights of a party in interest who first acquired rights with respect to the debtor after the date of the filing of the petition. The parties who may appear and be heard in a proceeding under this section include the attorney general of the State in which the debtor is incorporated, was formed, or does business.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the court in which a case under chapter 11 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 2005''.

(b) TEMPORARY JUDGESHIPS.—

(1) APPOINTMENTS.—The following bankruptcy judges shall be appointed in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(A) One additional bankruptcy judge for the eastern district of California.

(B) Three additional bankruptcy judges for the central district of California.

(C) Four additional bankruptcy judges for the district of Delaware.

(D) Two additional bankruptcy judges for the southern district of Florida.

(E) One additional bankruptcy judge for the southern district of Georgia.

(F) Three additional bankruptcy judges for the district of Maryland.

(G) One additional bankruptcy judge for the eastern district of Michigan.

(H) One additional bankruptcy judge for the southern district of Mississippi.

(I) One additional bankruptcy judge for the district of New Jersey.

(J) One additional bankruptcy judge for the eastern district of New York.

(K) One additional bankruptcy judge for the northern district of New York.

(L) One additional bankruptcy judge for the southern district of New York.

(M) One additional bankruptcy judge for the eastern district of North Carolina.

(N) One additional bankruptcy judge for the eastern district of Pennsylvania.

(O) One additional bankruptcy judge for the middle district of Pennsylvania.

(P) One additional bankruptcy judge for the district of Puerto Rico.

(Q) One additional bankruptcy judge for the western district of Tennessee.

(R) One additional bankruptcy judge for the eastern district of Virginia.

(S) One additional bankruptcy judge for the district of South Carolina.

(T) One additional bankruptcy judge for the district of Nevada.

(2) VACANCIES.—

(A) DISTRICTS WITH SINGLE APPOINTMENTS.—Except as provided in subparagraphs (B), (C), (D), and (E), the first vacancy occurring in the office of bankruptcy judge in each of the judicial districts set forth in paragraph (1)—

(i) occurring 5 years or more after the appointment date of the bankruptcy judge appointed under paragraph (1) to such office; and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(B) CENTRAL DISTRICT OF CALIFORNIA.—The 1st, 2d, and 3d vacancies in the office of bankruptcy judge in the central district of California—

(i) occurring 5 years or more after the respective 1st, 2d, and 3d appointment dates of the bankruptcy judges appointed under paragraph (1)(B); and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(C) DISTRICT OF DELAWARE.—The 1st, 2d, 3d, and 4th vacancies in the office of bankruptcy judge in the district of Delaware—

(i) occurring 5 years or more after the respective 1st, 2d, 3d, and 4th appointment dates of the bankruptcy judges appointed under paragraph (1)(F); and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(D) SOUTHERN DISTRICT OF FLORIDA.—The 1st and 2d vacancies in the office of bankruptcy judge in the southern district of Florida—

(i) occurring 5 years or more after the respective 1st and 2d appointment dates of the bankruptcy judges appointed under paragraph (1)(D); and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(E) DISTRICT OF MARYLAND.—The 1st, 2d, and 3d vacancies in the office of bankruptcy judge in the district of Maryland—

(i) occurring 5 years or more after the respective 1st, 2d, and 3d appointment dates of the bankruptcy judges appointed under paragraph (1)(F); and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(c) EXTENSIONS.—

(1) IN GENERAL.—The temporary office of bankruptcy judges authorized for the northern district of Alabama, the district of Delaware, the district of Puerto Rico, and the eastern district of Tennessee under paragraphs (1), (3), (7), and (9) of section 3(a) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) are extended until the first vacancy occurring in the office of a bankruptcy judge in the applicable district resulting from the death, retirement, resignation, or removal of a bankruptcy judge and occurring 5 years after the date of the enactment of this Act.

(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 the temporary office of bankruptcy judges 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 court of appeals of the United States 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 the 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 ''; and''; and

(C) by adding at the end the following:

''(3) 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 refiled 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 plan; 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)(3) is payable and may be collected by the trustee under that paragraph, even if such amount has been discharged in a prior case under this title; and

''(2) such compensation is payable in a case under this chapter only to the extent permitted by subsection (b)(3).''.

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:

''(18) under subsection (a) of the creation or perfection of a statutory lien for an ad valorem property tax, or a special tax or special assessment on real property whether or not ad valorem, imposed by a governmental unit, if such tax or assessment comes due after the date of the filing of the petition;''.

SEC. 1226. JUDICIAL EDUCATION.

The Director of the Federal Judicial Center, in consultation with the Director of the Executive Office for United States Trustees, shall develop materials and conduct such training as may be useful to courts in implementing this Act and the amendments made by this Act, including the requirements relating to the means test under section 707(b), and reaffirmation agreements under section 524, of title 11 of the United States Code, as amended by this Act.

SEC. 1227. RECLAMATION.

(a) RIGHTS AND POWERS OF THE TRUSTEE.—Section 546(c) of title 11, United States Code, is amended to read as follows:

''(c)(1) Except as provided in subsection (d) of this section and in section 507(c), and subject to the prior rights of a holder of a security interest 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 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, within 45 days before 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 503(b)(9).''.

(b) ADMINISTRATIVE EXPENSES.—Section 503(b) of title 11, United States Code, as amended by sections 445 and 1103, is amended by adding at the end the following:

''(9) the value of any goods received by the debtor within 20 days before 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. 1228. PROVIDING REQUESTED TAX DOCUMENTS TO THE COURT.

(a) CHAPTER 7 CASES.—The court shall not grant a discharge in the case of an individual who is a debtor in a case 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 case filed by an individual under chapter 7, 11, or 13 of title 11, United States Code. In the event of a pending audit or enforcement action, the court may extend the time for destruction of such requested tax documents.

SEC. 1229. ENCOURAGING CREDITWORTHINESS.

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

(1) certain lenders may sometimes offer credit to consumers indiscriminately, without taking steps to ensure that consumers are capable of repaying the resulting debt, and in a manner which may encourage certain consumers to accumulate additional debt; and

(2) resulting consumer debt may increasingly be a major contributing factor to consumer insolvency.

(b) STUDY REQUIRED.—The Board of Governors of the Federal Reserve System (hereafter in this section referred to as the ''Board'') shall conduct a study of—

(1) consumer credit industry practices of soliciting and extending credit—

(A) indiscriminately;

(B) without taking steps to ensure that consumers are capable of repaying the resulting debt; and

(C) in a manner that encourages consumers to accumulate additional debt; and

(2) the effects of such practices on consumer debt and insolvency.

(c) REPORT AND REGULATIONS.—Not later than 12 months after the date of enactment of this Act, the Board—

(1) shall make public a report on its findings with respect to the indiscriminate solicitation and extension of credit by the credit industry;

(2) may issue regulations that would require additional disclosures to consumers; and

(3) may take any other actions, consistent with its existing statutory authority, that the Board finds necessary to ensure responsible industrywide practices and to 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 sections 225 and 323, is amended by adding after paragraph (7), as added by section 323, the following:

''(8) 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 written or printed evidences of indebtedness or title) as collateral for a loan or advance of money given by a person 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); or''.

SEC. 1231. TRUSTEES.

(a) SUSPENSION AND TERMINATION OF PANEL TRUSTEES AND STANDING TRUSTEES.—Section 586(d) of title 28, United States Code, is amended—

(1) by inserting ''(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 title 11, United States Code, may obtain judicial review of the final agency decision by commencing an action in the district court of the United States for the district for which the panel to which the trustee is appointed under subsection (a)(1), or in the district court of the United States for the district in which the trustee is appointed under subsection (b) resides, after first exhausting all available 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 trustee requests administrative remedies. The Attorney General shall prescribe procedures to implement this paragraph. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based on the administrative record before the agency.''.

(b) EXPENSES OF STANDING TRUSTEES.—Section 586(e) of title 28, United States Code, is amended by adding at the end the following:

''(3) After first exhausting all available administrative remedies, an individual appointed under subsection (b) may obtain judicial review of final agency action to deny a claim of actual, necessary expenses under this subsection by commencing an action in the district court of the United States for the district where the individual resides. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based upon the administrative record before the agency.

''(4) The Attorney General shall prescribe procedures to implement this subsection.''.

SEC. 1232. BANKRUPTCY FORMS.

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. DIRECT APPEALS OF BANKRUPTCY MATTERS TO COURTS OF APPEALS.

(a) APPEALS.—Section 158 of title 28, United States Code, is amended—

(1) in subsection (c)(1), by striking ''Subject to subsection (b),'' and inserting ''Subject to subsections (b) and (d)(2),''; and

(2) in subsection (d)—

(A) by inserting ''(1)'' after ''(d)''; and

(B) by adding at the end the following:

''(2)(A) The appropriate court of appeals shall have jurisdiction of appeals described in the first sentence of subsection (a) if the bankruptcy court, the district court, or the bankruptcy appellate panel involved, acting on its own motion or on the request of a party to the judgment, order, or decree described in such first sentence, or all the appellants and appellees (if any) acting jointly, certify that—

''(i) the judgment, order, or decree involves a question of law as to which there is no controlling decision of the court of appeals for the circuit or of the Supreme Court of the United States, or involves a matter of public importance;

''(ii) the judgment, order, or decree involves a question of law requiring resolution of conflicting decisions; or

''(iii) an immediate appeal from the judgment, order, or decree may materially advance the progress of the case or proceeding in which the appeal is taken;

and if the court of appeals authorizes the direct appeal of the judgment, order, or decree.

''(B) If the bankruptcy court, the district court, or the bankruptcy appellate panel—

''(i) on its own motion or on the request of a party, determines that a circumstance specified in clause (i), (ii), or (iii) of subparagraph (A) exists; or

''(ii) receives a request made by a majority of the appellants and a majority of appellees (if any) to make the certification described in subparagraph (A);

then the bankruptcy court, the district court, or the bankruptcy appellate panel shall make the certification described in subparagraph (A).

''(C) The parties may supplement the certification with a short statement of the basis for the certification.

''(D) An appeal under this paragraph does not stay any proceeding of the bankruptcy court, the district court, or the bankruptcy appellate panel from which the appeal is taken, unless the respective bankruptcy court, district court, or bankruptcy appellate panel, or the court of appeals in which the appeal in pending, issues a stay of such proceeding pending the appeal.

''(E) Any request under subparagraph (B) for certification shall be made not later than 60 days after the entry of the judgment, order, or decree.''.

(b) PROCEDURAL RULES.—

(1) TEMPORARY APPLICATION.—A provision of this subsection shall apply to appeals under section 158(d)(2) of title 28, United States Code, until a rule of practice and procedure relating to such provision and such appeals is promulgated or amended under chapter 131 of such title.

(2) CERTIFICATION.—A district court, a bankruptcy court, or a bankruptcy appellate panel may make a certification under section 158(d)(2) of title 28, United States Code, only with respect to matters pending in the respective bankruptcy court, district court, or bankruptcy appellate panel.

(3) PROCEDURE.—Subject to any other provision of this subsection, an appeal authorized by the court of appeals under section 158(d)(2)(A) of title 28, United States Code, shall be taken in the manner prescribed in subdivisions (a)(1), (b), (c), and (d) of rule 5 of the Federal Rules of Appellate Procedure. For purposes of subdivision (a)(1) of rule 5—

(A) a reference in such subdivision to a district court shall be deemed to include a reference to a bankruptcy court and a bankruptcy appellate panel, as appropriate; and

(B) a reference in such subdivision to the parties requesting permission to appeal to be served with the petition shall be deemed to include a reference to the parties to the judgment, order, or decree from which the appeal is taken.

(4) FILING OF PETITION WITH ATTACHMENT.—A petition requesting permission to appeal, that is based on a certification made under subparagraph (A) or (B) of section 158(d)(2) shall—

(A) be filed with the circuit clerk not later than 10 days after the certification is entered on the docket of the bankruptcy court, the district court, or the bankruptcy appellate panel from which the appeal is taken; and

(B) have attached a copy of such certification.

(5) REFERENCES IN RULE 5.—For purposes of rule 5 of the Federal Rules of Appellate Procedure—

(A) a reference in such rule to a district court shall be deemed to include a reference to a bankruptcy court and to a bankruptcy appellate panel; and

(B) a reference in such rule to a district clerk shall be deemed to include a reference to a clerk of a bankruptcy court and to a clerk of a bankruptcy appellate panel.

(6) APPLICATION OF RULES.—The Federal Rules of Appellate Procedure shall apply in the courts of appeals with respect to appeals authorized under section 158(d)(2)(A), to the extent relevant and as if such appeals were taken from final judgments, orders, or decrees of the district courts or bankruptcy appellate panels exercising appellate jurisdiction under subsection (a) or (b) of section 158 of title 28, United States Code.

SEC. 1234. INVOLUNTARY CASES.

(a) AMENDMENTS.—Section 303 of title 11, United States Code, is amended—

(1) in subsection (b)(1), by—

(A) inserting ''as to liability or amount'' after ''bona fide dispute''; and

(B) striking ''if such claims'' and inserting ''if such noncontingent, undisputed claims''; and

(2) in subsection (h)(1), by inserting ''as to liability or amount'' before the semicolon at the end.

(b) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act and shall apply with respect to cases commenced under title 11 of the United States Code before, on, and after such date.

SEC. 1235. FEDERAL ELECTION LAW FINES AND PENALTIES AS NONDISCHARGEABLE DEBT.

Section 523(a) of title 11, United States Code, as amended by section 314, is amended by inserting after paragraph (14A) the following:

''(14B) incurred to pay fines or penalties imposed under Federal election law;''.

TITLE XIII—CONSUMER CREDIT DISCLOSURE

SEC. 1301. ENHANCED DISCLOSURES UNDER AN OPEN END CREDIT PLAN.

(a) MINIMUM PAYMENT DISCLOSURES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

''(11)(A) In the case of an open end credit plan that requires a minimum monthly payment 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. For example, making only the typical 2% minimum monthly payment on a balance of $1,000 at an interest rate of 17% would take 88 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum payments, call this toll-free number: _____.' (the blank space to be filled in by the creditor).

''(B) 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, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. Making a typical 5% minimum monthly payment on a balance of $300 at an interest rate of 17% would take 24 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call this toll-free number: _____.' (the blank space to be filled in by the creditor).

''(C) Notwithstanding subparagraphs (A) and (B), in the case of a creditor with respect to which compliance with this title is enforced by the Federal Trade Commission, the following statement, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, making only the typical 5% minimum monthly payment on a balance of $300 at an interest rate of 17% would take 24 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call the Federal Trade Commission at this toll-free number: _____.' (the blank space to be filled in by the creditor). A creditor who is subject to this subparagraph shall not be subject to subparagraph (A) or (B).

''(D) Notwithstanding subparagraph (A), (B), or (C), in complying with any such subparagraph, a creditor may substitute an example based on an interest rate that is greater than 17 percent. Any creditor that is subject to subparagraph (B) may elect to provide the disclosure required under subparagraph (A) in lieu of the disclosure required under subparagraph (B).

''(E) The Board shall, by rule, periodically recalculate, as necessary, the interest rate and repayment period under subparagraphs (A), (B), and (C).

''(F)(i) The toll-free telephone number disclosed by a creditor or the Federal Trade Commission under subparagraph (A), (B), or (G), as appropriate, may be a toll-free telephone number established and maintained by the creditor or the Federal Trade Commission, as appropriate, or may be a toll-free telephone number established and maintained by a third party for use by the creditor or multiple creditors or the Federal Trade Commission, as appropriate. The toll-free telephone number may connect consumers to an automated device through which consumers may obtain information described in subparagraph (A), (B), or (C), by inputting information using a touch-tone telephone or similar device, if consumers whose telephones are not equipped to use such automated device are provided the opportunity to be connected to an individual from whom the information described in subparagraph (A), (B), or (C), as applicable, may be obtained. A person that receives a request for information described in subparagraph (A), (B), or (C) from an obligor through the toll-free telephone number disclosed under subparagraph (A), (B), or (C), as applicable, shall disclose in response to such request only the information set forth in the table promulgated by the Board under subparagraph (H)(i).

''(ii)(I) The Board shall establish and maintain for a period not to exceed 24 months following the effective date of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, a toll-free telephone number, or provide a toll-free telephone number established and maintained by a third party, for use by creditors that are depository institutions (as defined in section 3 of the Federal Deposit Insurance Act), including a Federal credit union or State credit union (as defined in section 101 of the Federal Credit Union Act), with total assets not exceeding $250,000,000. The toll-free telephone number may connect consumers to an automated device through which consumers may obtain information described in subparagraph (A) or (B), as applicable, by inputting information using a touch-tone telephone or similar device, if consumers whose telephones are not equipped to use such automated device are provided the opportunity to be connected to an individual from whom the information described in subparagraph (A) or (B), as applicable, may be obtained. A person that receives a request for information described in subparagraph (A) or (B) from an obligor through the toll-free telephone number disclosed under subparagraph (A) or (B), as applicable, shall disclose in response to such request only the information set forth in the table promulgated by the Board under subparagraph (H)(i). The dollar amount contained in this subclause shall be adjusted according to an indexing mechanism established by the Board.

''(II) Not later than 6 months prior to the expiration of the 24-month period referenced in subclause (I), the Board shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the program described in subclause (I).

''(G) The Federal Trade Commission shall establish and maintain a toll-free number for the purpose of providing to consumers the information required to be disclosed under subparagraph (C).

''(H) The Board shall—

''(i) establish a detailed table illustrating the approximate number of months that it would take to repay an outstanding balance

if a consumer pays only the required minimum monthly payments and if no other advances are made, which table shall clearly present standardized information to be used to disclose the information required to be disclosed under subparagraph (A), (B), or (C), as applicable;

''(ii) establish the table required under clause (i) by assuming—

''(I) a significant number of different annual percentage rates;

''(II) a significant number of different account balances;

''(III) a significant number of different minimum payment amounts; and

''(IV) that only minimum monthly payments are made and no additional extensions of credit are obtained; and

''(iii) promulgate regulations that provide instructional guidance regarding the manner in which the information contained in the table established under clause (i) should be used in responding to the request of an obligor for any information required to be disclosed under subparagraph (A), (B), or (C).

''(I) The disclosure requirements of this paragraph do not apply to any charge card account, the primary purpose of which is to require payment of charges in full each month.

''(J) A creditor that maintains a toll-free telephone number for the purpose of providing customers with the actual number of months that it will take to repay the customer's outstanding balance is not subject to the requirements of subparagraph (A) or (B).

''(K) A creditor that maintains a toll-free telephone number for the purpose of providing customers with the actual number of months that it will take to repay an outstanding balance shall include the following statement on each billing statement: 'Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance. For more information, call this toll-free number: _____.' (the blank space to be filled in by the creditor).''.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board of Governors of the Federal Reserve System (hereafter in this title referred to as the ''Board'') shall promulgate regulations implementing the requirements of section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section.

(2) EFFECTIVE DATE.—Section 127(b)(11) of the Truth in Lending Act, 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 lending institutions 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 excessive 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) the availability of low minimum payment options is a cause of consumers experiencing financial difficulty.

(3) REPORT TO CONGRESS.—Findings of the Board in connection with any study conducted under this subsection shall be submitted to Congress. Such report shall also include recommendations for legislative initiatives, if any, of the Board, based on its findings.

SEC. 1302. ENHANCED DISCLOSURE FOR CREDIT EXTENSIONS SECURED BY A DWELLING.

(a) OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 127A(a)(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—

''(A) the''; and

(B) by striking the period at the end and inserting the following: ''; and

''(B) in any case in which the extension of credit exceeds the fair market value (as defined under the Internal Revenue Code of 1986) of the dwelling, the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes.''.

(2) CREDIT ADVERTISEMENTS.—Section 147(b) of the Truth in Lending Act (15 U.S.C. 1665b(b)) is amended—

(A) by striking ''If any'' and inserting the following:

''(1) IN GENERAL.—If any''; and

(B) by adding at the end the following:

''(2) CREDIT IN EXCESS OF FAIR MARKET VALUE.—Each advertisement described in subsection (a) that relates to an extension of credit that may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall include a clear and conspicuous statement that—

''(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

''(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.''.

(b) NON-OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 128 of the Truth in Lending Act (15 U.S.C. 1638) is amended—

(A) in subsection (a), by adding at the end the following:

''(15) In the case of a consumer credit transaction that is secured by the principal dwelling of the consumer, in which the extension of credit may exceed the fair market value of the dwelling, a clear and conspicuous statement that—

''(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

''(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.''; and

(B) in subsection (b), by adding at the end the following:

''(3) In the case of a credit transaction described in paragraph (15) of subsection (a), disclosures required by that paragraph shall be made to the consumer at the time of application for such extension of credit.''.

(2) CREDIT ADVERTISEMENTS.—Section 144 of the Truth in Lending Act (15 U.S.C. 1664) is amended by adding at the end the following:

''(e) Each advertisement to which this section applies that relates to a consumer credit transaction that is secured by the principal dwelling of a consumer in which the extension of credit may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall clearly and conspicuously state that—

''(1) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

''(2) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.''.

(c) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the amendments made by this section.

(2) EFFECTIVE DATE.—Regulations issued under paragraph (1) 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. 1303. DISCLOSURES RELATED TO "INTRODUCTORY RATES".

(a) INTRODUCTORY RATE DISCLOSURES.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

''(6) ADDITIONAL NOTICE CONCERNING 'INTRODUCTORY RATES'.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an application or solicitation to open a credit card account and all promotional materials accompanying such application or solicitation for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest, shall—

''(i) use the term 'introductory' in immediate proximity to each listing of the temporary annual percentage rate applicable to such account, which term shall appear clearly and conspicuously;

''(ii) if the annual percentage rate of interest that will apply after the end of the temporary rate period will be a fixed rate, state in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing of the temporary annual percentage rate in the tabular format described in section 122(c)), the time period in which the introductory period will end and the annual percentage rate that will apply after the end of the introductory period; and

''(iii) if the annual percentage rate that will apply after the end of the temporary rate period will vary in accordance with an index, state in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing in the tabular format prescribed by section 122(c)), the time period in which the introductory period will end and the 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) EXCEPTION.—Clauses (ii) and (iii) of subparagraph (A) do not apply with respect

to any listing of a temporary annual percentage rate on an envelope or other enclosure in which an application or solicitation to open a credit card account is mailed.

''(C) CONDITIONS FOR INTRODUCTORY RATES.—An application or solicitation to open a credit card account for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest shall, if that rate of interest is revocable under any circumstance or upon any event, clearly and conspicuously disclose, in a prominent manner on or with such application or solicitation—

''(i) a general description of the circumstances that may result in the revocation of the temporary annual percentage rate; and

''(ii) if the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate—

''(I) will be a fixed rate, the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate; or

''(II) will vary in accordance with an index, the rate that will apply after the temporary rate, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.

''(D) DEFINITIONS.—In this paragraph—

''(i) the terms 'temporary annual percentage rate of interest' and 'temporary annual percentage rate' mean any rate of interest applicable to a credit card account for an introductory period of less than 1 year, if that rate is less than an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation; and

''(ii) the term 'introductory period' means the maximum time period for which the temporary annual percentage rate may be applicable.

''(E) RELATION TO OTHER DISCLOSURE REQUIREMENTS.—Nothing in this paragraph may be construed to supersede subsection (a) of section 122, or any disclosure required by paragraph (1) or any other provision of this subsection.''.

(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—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1304. INTERNET-BASED CREDIT CARD SOLICITATIONS.

(a) INTERNET-BASED SOLICITATIONS.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

''(7) INTERNET-BASED SOLICITATIONS.—

''(A) IN GENERAL.—In any solicitation to open a credit card account for any person under an open end consumer credit plan using the Internet or other interactive computer service, the person making the solicitation shall clearly and conspicuously disclose—

''(i) the information described in subparagraphs (A) and (B) of paragraph (1); and

''(ii) the information described in paragraph (6).

''(B) FORM OF DISCLOSURE.—The disclosures required by subparagraph (A) shall be—

''(i) readily accessible to consumers in close proximity to the solicitation to open a credit card account; and

''(ii) 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 international computer network of both Federal and non-Federal interoperable packet switched data networks; and

''(ii) the term 'interactive computer service' means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer 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 section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and the regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1305. DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.

(a) DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

''(12) If a late payment fee is to be imposed due to the failure of the obligor to make payment on or before a required payment due date, the following shall be stated clearly and conspicuously on the billing statement:

''(A) The date on which that payment is due or, if different, the earliest date on which a late payment fee may be charged.

''(B) The amount of the late payment fee to be imposed if payment is made after such date.''.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(b)(12) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1306. PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.

(a) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

''(h) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—A creditor of an account under an open end consumer credit plan may not terminate an account prior to its expiration date solely because the consumer has not incurred finance charges on the account. Nothing in this subsection shall prohibit a creditor from terminating an account for inactivity in 3 or more consecutive months.''.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(h) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1307. DUAL USE DEBIT CARD.

(a) REPORT.—The Board may conduct a study of, and present to Congress a report containing its analysis of, consumer protections under existing law to limit the liability of consumers for unauthorized use of a debit card or similar access device. Such report, if submitted, shall include recommendations for legislative initiatives, if any, of the Board, based on its findings.

(b) CONSIDERATIONS.—In preparing a report under subsection (a), the Board may include—

(1) the extent to which section 909 of the Electronic Fund Transfer Act (15 U.S.C. 1693g), 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;

(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 Act, are necessary to further address adequate protection for consumers concerning unauthorized use liability.

SEC. 1308. STUDY OF BANKRUPTCY IMPACT OF CREDIT EXTENDED TO DEPENDENT STUDENTS.

(a) STUDY.—

(1) IN GENERAL.—The Board shall conduct a study regarding the impact that the extension of credit described in paragraph (2) has on the rate of cases filed under title 11 of the United States Code.

(2) EXTENSION OF CREDIT.—The extension of credit described in this paragraph is the extension of credit to individuals who are—

(A) claimed as dependents for purposes of the Internal Revenue Code of 1986; and

(B) enrolled within 1 year of successfully completing all required secondary education requirements and on a full-time basis, in postsecondary educational institutions.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Board shall submit to the Senate and the House of Representatives a report summarizing the results of the study conducted under subsection (a).

SEC. 1309. CLARIFICATION OF CLEAR AND CONSPICUOUS.

(a) REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Board, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration Board, and the Federal Trade Commission, shall promulgate regulations to provide guidance regarding the meaning of the term ''clear and conspicuous'', as used in subparagraphs (A), (B), and (C) of section 127(b)(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 made under the provisions of the Truth in Lending Act referred to in subsection (a) can be implemented in a

manner which results in disclosures which are reasonably understandable and designed to call attention to the nature and significance of the information in the notice.

TITLE XIV—PREVENTING CORPORATE BANKRUPTCY ABUSE

SEC. 1401. EMPLOYEE WAGE AND BENEFIT PRIORITIES.

Section 507(a) of title 11, United States Code, as amended by section 212, is amended—

(1) in paragraph (4) by striking ''90'' and inserting ''180'', and

(2) in paragraphs (4) and (5) by striking ''$4,000'' and inserting ''$10,000''.

SEC. 1402. FRAUDULENT TRANSFERS AND OBLIGATIONS.

Section 548 of title 11, United States Code, is amended—

(1) in subsections (a) and (b) by striking ''one year'' and inserting ''2 years'',

(2) in subsection (a)—

(A) by inserting ''(including any transfer to or for the benefit of an insider under an employment contract)'' after ''transfer'' the 1st place it appears, and

(B) by inserting ''(including any obligation to or for the benefit of an insider under an employment contract)'' after ''obligation'' the 1st place it appears, and

(3) in subsection (a)(1)(B)(ii)—

(A) in subclause (II) by striking ''or'' at the end,

(B) in subclause (III) by striking the period at the end and inserting ''; or'', and

(C) by adding at the end the following:

''(IV) made such transfer to or for the benefit of an insider, or incurred such obligation to or for the benefit of an insider, under an employment contract and not in the ordinary course of business.''.

(4) by adding at the end the following:

''(e)(1) In addition to any transfer that the trustee may otherwise avoid, the trustee may avoid any transfer of an interest of the debtor in property that was made on or within 10 years before the date of the filing of the petition, if—

''(A) such transfer was made to a self-settled trust or similar device;

''(B) such transfer was by the debtor;

''(C) the debtor is a beneficiary of such trust or similar device; and

''(D) the debtor made such transfer with actual intent to hinder, delay, or defraud any entity to which the debtor was or became, on or after the date that such transfer was made, indebted.

''(2) For the purposes of this subsection, a transfer includes a transfer made in anticipation of any money judgment, settlement, civil penalty, equitable order, or criminal fine incurred by, or which the debtor believed would be incurred by—

''(A) any violation of the securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47))), any State securities laws, or any regulation or order issued under Federal securities laws or State securities laws; or

''(B) fraud, deceit, or manipulation in a fiduciary capacity or in connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 781 and 78o(d)) or under section 6 of the Securities Act of 1933 (15 U.S.C. 77f).''.

SEC. 1403. PAYMENT OF INSURANCE BENEFITS TO RETIRED EMPLOYEES.

Section 1114 of title 11, United States Code, is amended—

(1) by redesignating subsection (l) as subsection (m), and

(2) by inserting after subsection (k) the following:

''(l) If the debtor, during the 180-day period ending on the date of the filing of the petition—

''(1) modified retiree benefits; and

''(2) was insolvent on the date such benefits were modified;

the court, on motion of a party in interest, and after notice and a hearing, shall issue an order reinstating as of the date the modification was made, such benefits as in effect immediately before such date unless the court finds that the balance of the equities clearly favors such modification.''.

SEC. 1404. DEBTS NONDISCHARGEABLE IF INCURRED IN VIOLATION OF SECURITIES FRAUD LAWS.

(a) PREPETITION AND POSTPETITION EFFECT.—Section 523(a)(19)(B) of title 11, United States Code, is amended by inserting '', before, on, or after the date on which the petition was filed,'' after ''results''.

(b) EFFECTIVE DATE UPON ENACTMENT OF SARBANES-OXLEY ACT.—The amendment made by subsection (a) is effective beginning July 30, 2002.

SEC. 1405. APPOINTMENT OF TRUSTEE IN CASES OF SUSPECTED FRAUD.

Section 1104 of title 11, United States Code, is amended by adding at the end the following:

''(e) The United States trustee shall move for the appointment of a trustee under subsection (a) if there are reasonable grounds to suspect that current members of the governing body of the debtor, the debtor's chief executive or chief financial officer, or members of the governing body who selected the debtor's chief executive or chief financial officer, participated in actual fraud, dishonesty, or criminal conduct in the management of the debtor or the debtor's public financial reporting.''.

SEC. 1406. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—cept as provided in paragraph (2), the amendments made by this title shall apply only with respect to cases commenced under title 11 of the United States Code on or after the date of the enactment of this Act.

(2) AVOIDANCE PERIOD.—The amendment made by section 1402(1) shall apply only with respect to cases commenced under title 11 of the United States Code more than 1 year after the date of the enactment of this Act.

TITLE XV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

SEC. 1501. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—Except as otherwise provided in this Act and paragraph (2), the amendments made by this Act shall not apply with respect to cases commenced under title 11, United States Code, before the effective date of this Act.

(2) CERTAIN LIMITATIONS APPLICABLE TO DEBTORS.—The amendments made by sections 308, 322, and 330 shall apply with respect to cases commenced under title 11, United States Code, on or after the date of the enactment of this Act.

SEC. 1502. TECHNICAL CORRECTIONS.

(a) CONFORMING AMENDMENTS TO TITLE 11 OF THE UNITED STATES CODE.—Title 11 of the United States Code, as amended by the preceding provisions of this Act, is amended—

(1) in section 507—

(A) in subsection (a)—

(i) in paragraph (5)(B)(ii) by striking ''paragraph (3)'' and inserting ''paragraph (4)''; and

(ii) in paragraph (8)(D) by striking ''paragraph (3)'' and inserting ''paragraph (4)'';

(B) in subsection (b) by striking ''subsection (a)(1)'' and inserting ''subsection (a)(2)''; and

(C) in subsection (d) by striking ''subsection (a)(3)'' and inserting ''subsection (a)(1)'';

(2) in section 523(a)(1)(A) by striking ''507(a)(2)'' and inserting ''507(a)(3)'';

(3) in section 752(a) by striking ''507(a)(1)'' and inserting ''507(a)(2)'';

(4) in section 766—

(A) in subsection (h) by striking ''507(a)(1)'' and inserting ''507(a)(2)''; and

(B) in subsection (i) by striking ''507(a)(1)'' each place it appears and inserting ''507(a)(2)'';

(5) in section 901(a) by striking ''507(a)(1)'' and inserting ''507(a)(2)'';

(6) in section 943(b)(5) by striking ''507(a)(1)'' and inserting ''507(a)(2)'';

(7) in section 1123(a)(1) by striking ''507(a)(1), 507(a)(2)'' and inserting ''507(a)(2), 507(a)(3)'';

(8) in section 1129(a)(9)—

(A) in subparagraph (A) by striking ''507(a)(1) or 507(a)(2)'' and inserting ''507(a)(2) or 507(a)(3)''; and

(B) in subparagraph (B) by striking ''507(a)(3)'' and inserting ''507(a)(1)'';

(9) in section 1226(b)(1) by striking ''507(a)(1)'' and inserting ''507(a)(2)''; and

(10) in section 1326(b)(1) by striking ''507(a)(1)'' and inserting ''507(a)(2)''.

(b) RELATED CONFORMING AMENDMENT.—Section 6(e) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78fff(e)) is amended by striking ''507(a)(1)'' and inserting ''507(a)(2)''.

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to House Resolution 211, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 256.

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

There was no objection.

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

Mr. Speaker, I rise in support of S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. This legislation consists of a comprehensive package of reform measures pertaining to consumer and business bankruptcy cases. The current system has created a set of incentives that encourage opportunistic personal filings and the abuse of a bankruptcy system originally intended to strike a delicate balance between debtor and creditor rights. These abuses ultimately hurt debtors as well as creditors, consumers as well as businesses, suppliers as well as purchasers. The only winners in the current bankruptcy system are those who game the system for personal gain.

S. 256 restores personal responsibility and integrity to the bankruptcy system and ensures that the system is fair

to both debtors and creditors. This legislation represents the most comprehensive reform of the bankruptcy system in more than 25 years.

As many of us know, bankruptcy reform has been subject to exhaustive congressional review for more than a decade, beginning with the establishment of a National Bankruptcy Review Commission in 1994. It is important to note that over the course of the last four Congresses, the House has passed bankruptcy reform on eight separate occasions by overwhelming and bipartisan margins.

This bill will help stop fraudulent, abusive, and opportunistic bankruptcy claims by closing various loopholes and incentives that have produced steadily cascading claims.

Central to these reforms is a merit-based test that reflects the commonsense proposition that those who are capable of repaying their debts after seeking bankruptcy relief must actually repay their debts. S. 256 will also give the courts greater powers to dismiss abusive bankruptcy cases and to punish attorneys who encourage their clients to file such claims. In addition, the bill prevents violent criminals or drug traffickers from using bankruptcy relief to evade their creditors.

The bill closes the ''millionaire's mansion'' loophole in the current bankruptcy code that permits corporate criminals to shield their multimillion dollar homesteads from deserving creditors. Of critical importance, the legislation prevents deadbeat parents from abusing the bankruptcy system to shirk their child support obligations. With respect to these reforms, the National Child Support Enforcement Association stated that S. 256 is ''crucial to the collection of child support during bankruptcy.''

Some might ask why Congress has been so concerned about abuse in the bankruptcy system. The answer to this question should be obvious. It is estimated that every American household bears an annual $400 hidden tax for profligate and abusive bankruptcy filings. That is a $400 tax on every household that no politician has to vote for, but gets paid anyhow.

As a result, every abusive bankruptcy filing impacts hard-working Americans in the form of higher interest rates and increased costs of goods and service. Our economy and the hard-working Americans who sustain it should not suffer any longer from the billions of dollars in losses associated with abusive bankruptcy filings.

Mr. Speaker, this legislation not only deals with abuse in the bankruptcy system; it includes many vital consumer protections as well. S. 256 will provide the tools to crack down on bankruptcy petition mills, which often misrepresent the benefits and risks of bankruptcy relief. It will impose heightened standards of professional responsibility for attorneys who represent debtors. It will require certain credit card solicitations, monthly billing statements, and related materials to include important disclosures and explanatory statements on a broad range of credit terms and conditions, including introductory interest rates and minimum payments.

The bill also helps America's family farmers and fishermen confronting economic hard times by providing more tools to assist in their bankruptcy reorganization. The bill includes protections for medical patients in bankruptcy health care facilities and pro-privacy provisions that protect against the unwanted disclosure of personal information.

There are several other critical reforms contained in this comprehensive legislation, but the limits of time prevent an exhaustive recitation.

Mr. Speaker, the time for bankruptcy reform is long overdue. Bankruptcy reform legislation has been subject to more process, more consideration, more deliberation, more debate, and more voting than virtually any other legislative item in the past decade. We have before us legislation that represents the culmination of a decade of legislative toil and persistence. It is the product of extensive bicameral and bipartisan compromise and was approved by the other body by a vote of 74 to 25.

We also have before us a historic opportunity to return a measure of fairness and accountability to the bankruptcy system in a manner that will curb bankruptcy abuse while rewarding the vast majority of hard-working Americans who play by the rules and pay their bills as agreed upon.

Mr. Speaker, I urge my colleagues to seize this opportunity to join me in supporting this legislation.

Mr. Speaker, before closing, I include for the RECORD a supplemental statement acknowledging the hard work of many Members and staff who have helped make this legislation possible, as well as a summary of the principal provisions of this bill.

Mr. Speaker, over the many years this legislation has been pending in the Congress, many Members, Senators, and staff members have devoted themselves to making S. 256 a reality. I would like to take this opportunity to recognize these individuals.

Beginning with my colleagues in the House, I would like to mention the many contributions of the Chairman of the Subcommittee on Commercial and Administrative Law (Mr. CANNON) for his hard work on behalf of this legislation. The Chairman of the Financial Services Committee (Mr. OXLEY) has also been a great resource. I also appreciate the contributions of my colleagues on the other side of the aisle, the Ranking Member of the Judiciary Committee (Mr. CONYERS) and the gentleman from Virginia (Mr. BOUCHER). Former Members should also be recognized for their contributions. Bill McCollum is to be commended for being the first to introduce comprehensive bankruptcy reform and George Gekas deserves our gratitude for his tireless efforts.

In addition, I would like to mention the following staff on the Judiciary Committee for their contributions: Phil Kiko, Majority Committee General Counsel and Chief of Staff; Rob Tracci, Chief Legislative Counsel and Parliamentarian; Raymond Smietanka, Chief Counsel, Subcommittee on Commercial and Administrative Law; Perry Apelbaum; David Lachmann; Matt Iandoli, Legislative Director for Representative CANNON; Todd Thorpe, Chief of Staff for Representative CANNON; Laura Vaught, Deputy Chief of Staff for Representative BOUCHER; Jean Harmann, House Legislative Counsel and Dina Ellis, Counsel for the House Financial Services Committee.

Former staffers who should also be recognized, include Will Moschella, Joe Rubin, Alan Cagnoli, and Liz Trainer.

The vital and indispensable efforts of one staff member have uniquely contributed to the bankruptcy reform legislation we consider today. From her service as general counsel on the congressionally-created National Bankruptcy Review Commission to her often behind the scenes work on bankruptcy reform legislation extending to the 105th Congress, Susan Jensen, counsel to the Judiciary Subcommittee on Commercial and Administrative Law, deserves special recognition. Her technical expertise in a complex area of law has resulted in dramatic improvements in successive drafts of bankruptcy reform legislation and helped establish a record of legislative history that elucidates the legislation we consider today. Her professionalism, attention to detail, and commitment to serving the House of Representatives deserves the recognition and commendation of this House.

I would also like to acknowledge the countless contributions of our colleagues in the other body. These include Senators GRASSLEY, HATCH, SESSIONS, SPECTER, BIDEN and LEAHY.

This legislation has also benefitted from the hard work and devoted assistance of numerous Senate staff members. These include, Rita Lari, counsel for Senator GRASSLEY, who has been a wonderful resource for our staff. In addition, the following individuals must also be acknowledged: Harold Kim and Tim Strachan, counsels for Senator SPECTER; Perry Barber, Rene Augustine, and former staffer Makan Delrahim, counsels for Senator HATCH; and Ed Pagano, Chief of Staff for Senator LEAHY.

SUMMARY OF PRINCIPAL PROVISIONS OF S. 256, ''THE BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005''

CONSUMER BANKRUPTCY REFORMS

Abuse prevention: S. 256 instills a greater level of personal responsibility by closing various loopholes and eliminating incentives in the current bankruptcy system that encourage opportunistic consumer bankruptcy filings and abuse. The bill's needs-based provisions target, for example, those debtors who have a demonstrated ability to repay their debts and channels them into a form of bankruptcy relief that requires debt repayment. Courts, under S. 256, are given greater powers to dismiss abusive bankruptcy cases and to punish attorneys who encourage their clients to file such cases. Debtors who have committed crimes of violence or engaged in drug trafficking will no longer be able to use bankruptcy to hide from their creditors. Likewise, deadbeat parents will be prevented from using bankruptcy to shirk their child support obligations. In addition, this legislation prevents debtors from avoiding their responsibility to pay for luxury goods and services purchased on the eve of filing for bankruptcy.

Needs-based reforms: S. 256 implements an income and expense analysis to determine

whether a debtor has a demonstrated ability to repay a significant portion of his or her debts. If a debtor has the ability to repay debts, he or she must either be channeled into a form of bankruptcy relief that requires repayment or risk having the bankruptcy case dismissed as an abusive filing. This needs-based test specifies certain expense amounts—derived from IRS expense standards and other specified expenses—that are deducted from the debtor's income. These include expenses for food, clothing, housing, and transportation as well as certain educational expenses for the debtor's children. The debtor may rebut the presumption of abuse by demonstrating special circumstances warranting additional expenses or income adjustment.

Spousal and child support protections: S. 256 prioritizes the collection and payment of spousal and child support in bankruptcy cases by giving these claims the highest payment priority (current law gives these claimants an only 7th level payment priority). The bill requires bankruptcy trustees to give child support claimants important information about the availability of state child support enforcement assistance and to notify the proper state child support enforcement authorities of the deadbeat parent's bankruptcy filing. S. 256 allows various enforcement actions to be brought against a bankrupt deadbeat parent, including the withholding of his or her driver's license, or the suspension of the debtor's professional or occupational license. It also allows state child support enforcement agencies to intercept a debtor's tax refund for nonpayment of spousal or child support. In addition, it ensures that a deadbeat parent do not escape responsibility to pay a child's medical bills. The National Child Support Enforcement Association says S. 256's reforms are ''crucial to the collection of child support during bankruptcy.''

Closes the ''mansion loophole'' for greedy corporate culprits: Under current bankruptcy law, debtors living in certain states can shield from their creditors virtually all of the equity in their homes. In light of this, some debtors actually move to these states just to take advantage of their ''mansion loophole'' laws. S. 256 closes this loophole for abuse by requiring a debtor to reside in the state for at least 2 years before he or she can claim that state's homestead exemption—the current residency requirement is only 91 days! The bill further reduces the opportunity for abuse by requiring a debtor to own the homestead for at least 40 months before he or she can use state exemption law—current law imposes no such requirement. In addition, S. 256 requires a debtor's homestead exemption to be reduced for to the extent attributable to the debtor's fraudulent conversion of nonexempt assets (e.g., cash) into a homestead exemption. Most importantly, the bill stops securities law violators and other culprits from hiding their homestead assets from those whom they have defrauded or injured If a debtor was convicted of a felony, violated a securities law, or committed a criminal act, intentional tort, or engaged in reckless misconduct that caused serious physical injury or death, S. 256 overrides state homestead exemption law and caps the debtor's homestead exemption at $125,000.

Debtor protections: S. 256 requires debtors to receive credit counseling before they can be eligible for bankruptcy relief so that they will make an informed choice about bankruptcy—its alternatives and consequences. The bill also requires debtors, after they have filed for bankruptcy, to participate in financial management instructional courses so they can hopefully avoid future financial distress. S. 256 penalizes creditors who unreasonably refuse to negotiate a pre-bankruptcy debt repayment plan with a debtor. The bill strengthens the disclosure requirements for reaffirmation agreements so that debtors will be better informed about their rights and responsibilities. In addition, S. 256 requires certain monthly credit card billing statements to include specified disclosures regarding the increased interest and repayment time associated with making minimum payments. The bill also requires certain home equity loan and credit card solicitations to include enhanced consumer disclosures. S. 256 prohibits a creditor from terminating an open end consumer credit plan simply because the consumer has not incurred finance charges on the account. Further, the bill cracks down on bankruptcy petition mills and imposes heightened standards of professional responsibility for attorneys who represent debtors.

BUSINESS BANKRUPTCY AND OTHER REFORMS

Protections for small business owners: Under current bankruptcy law, a business can be sued by a bankruptcy trustee and forced to pay back monies previously paid to it by a firm that later files for bankruptcy protection. S. 256 contains provisions making it easier—particularly for small businesses—to successfully defend against these suits.

Promotes greater certainty in the financial market place: S. 256 reduces systemic risk in the banking system and financial marketplace by minimizing the risk of disruption when parties to certain financial transactions become bankrupt or insolvent. Federal Reserve Board Chairman Alan Greenspan says these reforms are ''extremely important.''

Family farmers: S. 256 helps small family farmers facing financial distress. While current bankruptcy law has a specialized form of bankruptcy relief—Chapter 12—that is specifically designed for family farmers, its benefits for farmers are limited because of its restrictive eligibility requirements. The bill responds to this problem in several key respects: it more than doubles the debt eligibility limit and requires it to be periodically adjusted for inflation; it lowers the requisite percentage of a farmer's income that must be derived from farming operations; and it gives farmers more flexibility with respect to how certain creditors can be repaid. As a result, many more deserving family farmers facing financial hard times will be able to avail themselves of Chapter 12. In addition, S. 256 makes Chapter 12 a permanent component of the bankruptcy laws and extends the benefits of this form of bankruptcy relief to family fishermen.

Small business debtors: S. 256 addresses the special problems presented by small business debtors by instituting firm deadlines and enforcement mechanisms to weed out those debtors who are not likely to reorganize. It also requires the court and other designated entities to monitor these cases more actively.

Transnational insolvencies: In response to the increasing globalization of business dealings and operations, S. 256 establishes a separate chapter under the Bankruptcy Code devoted to transnational insolvencies. These provisions are intended to provide greater legal certainty for trade and investment as well promote the fair and efficient administration of these cases.

Privacy protections: Under current law, nearly every item of information supplied by a debtor in connection with his or her bankruptcy case is made available to the public. S. 256 prohibits the disclosure of the names of the debtor's minor children and requires such information to be kept in a nonpublic record, which can be made available for inspection only by the court and certain other designated entities. In addition, if a business debtor had a policy prohibiting it from selling ''personally identifiable information'' about its customers and the policy was in effect at the time of the bankruptcy filing, then S. 256 prohibits the sale of such information unless certain conditions are satisfied.

Protections for employees: S. 256 requires certain back pay awards granted as a result of the debtor's violation of Federal or State law to receive one of the highest payment priorities in a bankruptcy case. In addition, S. 256 streamlines the appointment of an ERISA administrator for an employee benefit plan, under certain circumstances, to minimize the disruption that results when an employer files for bankruptcy relief. In light of the disaterous impact that bankruptcy cases like WorldCom and Enron have had on their employees, reforms that more than double current the monetary cap on wage and employee benefit claims entitled to priority under the Bankruptcy Code. Other provisions would protect retirees in cases where Chapter 11 debtors unilaterally modify their benefits, such as health insurance. These reforms would also make it easier to recover excessive pre-petition compensation, such as bonuses, paid to insiders of a debtor that can then be used to pay unpaid employee wage claims.

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

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

Mr. Speaker, this is the most special interest-vested bill that I have ever dealt with in my career in Congress. It massively tilts the playing field in favor of banks and credit card companies and against working people and their families. I have never, ever faced such a piece of legislation. That explains to me why it took 8 years to get this thing up here, because they kept fixing it up, making it wrong.

Mr. Speaker, all I want to say as we open this debate is that to those who assert that this bill cracks down on creditor abuse, I would ask them to realize that this bill does absolutely nothing to discourage abusive, underage lending; nothing to discourage reckless lending to the developmentally disabled; nothing to regulate the practice of sub-prime lending to persons with no means or little ability to repay their debts; nothing to crack down on the sharks, the lenders, that charge members of the Armed Forces up to 500 percent interest per year or more. They hang around the bases and lure them in.

What this is is something that we should all be truly embarrassed about. This bill is opposed by every consumer group, by all the bankruptcy judges, the trustees, law professors, by all of organized labor, by the military groups, by the civil rights organizations, and by every major group concerned about seniors, women, and children.

Please, if we do not do anything else in the 109th Congress, let us not let this bill get out of the House of Representatives.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman

from Virginia (Mr. BOUCHER) to show that this is truly a bipartisan effort.

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

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

Mr. Speaker, the reform of the nation's bankruptcy laws which our actions today will accomplish is well justified. This reform is strongly in the interests of consumers. It will significantly reduce the annual hidden tax of approximately $400 that the typical consumer pays because others are misusing the bankruptcy laws. That amount represents the increased cost of credit and the increased price of goods and services caused by bankruptcy law misuse. This reform will lower that hidden tax.

The reform also helps consumers by requiring clearer disclosures of the cost of credit on credit card statements, and the reform will be a major benefit to single parents who receive alimony or child support. That person today is fifth in priority for the receipt of payment under the bankruptcy laws. The reform before us today elevates the spouse support recipient to number one in priority.

This reform proceeds from the basic premise that people who can afford to repay a substantial portion of what they owe should do so. The bill requires that repayment while allowing a discharge in bankruptcy of the debts that cannot be repaid. In so doing, it responds to the broad misuse of chapter 7's complete liquidation provisions that we have observed in recent years.

The reform measure sets a threshold for the use of chapter 7. Debtors who can make little or no repayment can use its provisions and discharge all of their debts. Debtors whose annual income is below the national mean of about $50,000 per year are untouched by this reform. They can make full use of chapter 7 and discharge all of their debts, whether or not they can afford to make repayments.

This reform imposes a modest measure of personal responsibility that is well justified, and I urge its approval by the House.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 2½ minutes to the gentleman from Massachusetts (Mr. DELAHUNT), a distinguished member of the committee.

Mr. DELAHUNT. Mr. Speaker, let me just suggest the following, with all due respect to my friend from Wisconsin and my friend from Virginia.

□ 1345

The figure of $400 is a mythical figure. It is inaccurate.

In addition to that, be rest assured, if you are a consumer, you will not benefit one penny from this bill. Do my colleagues know who is going to benefit? The credit card industry. Anyone familiar with the history of this bill knows that it was written by and for the credit card industry, and they spent north of $40 million to make sure that they got what they wanted.

The American people are the losers here, unless you happen to be a senior executive of a credit card company or an investor in credit card companies, because they are going to make a good score here today, but the American taxpayer is going to pay for it.

According to the CBO, the bill will cost taxpayers $392 million over a 5-year period and simultaneously reduce tax revenue by $456 million, increasing the budget deficit, by the way, that we are all so concerned about. The bill is nothing more than a public subsidy for one of the most profitable businesses in our economy.

What is sad is that we could have produced legislation which would have been fair and balanced. We continue to hear that fair and balanced theme, but the credit card industry would not allow it. They would not tolerate any effort to make them accountable, no matter how minimal.

To cite just one example, myself and the gentleman from North Carolina (Mr. WATT) proposed an amendment to limit the interest charged on a credit card to 75 percent. I said 75 percent. The credit card industry said, no; and, of course, their supporters defeated our amendment; and this amendment is not before us today. I would suggest 75 percent is not bad, even by Mafia standards. Loan sharking used to be a crime in this country. Maybe this bill should be renamed as the Loan Sharking Decriminalization Act of 2000.

We hear the term personal responsibility, but when it comes to the concept of corporate responsibility, silence.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Utah (Mr. CANNON), the chairman of the Subcommittee on Commercial and Administrative Law.

Mr. CANNON. Mr. Speaker, I rise in support of Senate bill 256 and urge its adoption by the House.

Whether or not we have a cost of $400 per household or some other cost, I think it is clear to all Americans that we pay a cost if we have excessive bankruptcies in America. What we are looking for here is workable markets where consumers have the opportunity to borrow money at the lowest cost. Hopefully, they are not above 18 percent; certainly not at 75 percent. The market does a remarkable job for that purpose.

For more than 7 years now, almost as long as I have been in Congress, we have struggled with the rising tide of bankruptcy abuse which threatens the delicate balance in this country between creditors and debtors. As this reform measure has developed, slowly, inexorably, we have dealt with each issue: framing, debating, considering, and ultimately resolving each controversy. Progressive Congresses have moved toward ultimate resolution, until finally today the House has been presented with a bill that it can send directly to the President for signature.

As chairman of the Subcommittee on Commercial and Administrative Law, I take considerable satisfaction that, through collective effort, we would be able to achieve what many said would never happen. We have crafted fair and balanced legislation dealing in a straightforward manner with a problem that has vexed the Nation for the past decade and threatens economic growth and stability. By the way, the Bankruptcy Act has not been amended for 25 years in a serious way.

The American people will truly be well served by this effort. This bill is a rare achievement of reducing disparity in the bankruptcy system. It establishes more uniform and predictable standards. It strengthens the integrity of the bankruptcy process. It deals with the continuing wave of bankruptcy filings and abuse of State homestead exemptions. It will reinforce the public perception that the system is fair for all participants. It improves the administration of the bankruptcy process. And, finally, it restores a measure of personal responsibility to the bankruptcy system that is spiraling out of control.

Mr. Speaker, my constituents need this legislation, and America needs this legislation, and I urge support today for S. 256.

I would also note that the need for additional bankruptcy judgeships may need to be considered to reflect the numbers submitted by the Judicial Conference's most recent report. Additional judgeships are sorely needed in a number of districts across the country, including my State of Utah. I was heartened by the assurance of the chairman of the Committee on the Judiciary during the markup of Senate 256 that this matter will be considered later this year. In that regard, I would like to thank the gentleman from Georgia (Mr. KINGSTON) who has worked tirelessly on the issue of expanding the number of bankruptcy judges we have to meet this need.

Mr. Speaker, at this point I will place additional information on the bill in the RECORD.

During the course of the Senate Judiciary Committee's consideration of S. 256, a provision was added to deal with excessive retention bonuses, severance payments and other forms of inducements paid by a debtor to retain key personnel or otherwise induce a debtor's management to remain with the debtor.

This provision addresses serious conserns and I support the intent of its drafters. Nevertheless, this provision should not be construed to invalidate all key employee retention programs for companies that may someday wind up in Chapter 11. It is very important that a Chapter 11 debtor be able to retain management that is dedicated to maintaining the company's value for the benefit of its creditors, investors, employees, and other stakeholders. All too often, companies that fail to reorganize successfully are converted to Chapter 7 for liquidation, where creditors receive pennies on the dollar and employees face job dislocation.

Where appropriate, key employee retention programs may be necessary to bring a company in financial distress successfully through the Chapter 11 process. Accordingly, section 331 of S. 256 should not be applied to invalidate such programs where there is no evidence of insider negligence, mismanagement, or fraudulent conduct contributed to a company's insolvency—in whole or in part.

Given the possibility that the intent of the Congress with respect to this provision and the interpretation of Section 331's text may not be consistent, legislation clarifying language may be necessary. If so, I will work with my colleagues in the House and Senate to address any such inconsistencies.

I ask that a letter from the Association of Insolvency and Restructuring Advisors be printed at this point in the RECORD.

ASSOCIATION OF INSOLVENCY,
AND RESTRUCTURING ADVISORS,
Medford, OR, March 1, 2005.

Senator ARLEN SPECTER,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The undersigned are financial and legal professionals who serve as the Board of Directors of the Association of Insolvency and Restructuring Advisors (AIRA). As board members we work to further the AIRA's goal of increasing industry awareness of the organization as an important educational and technical resource for professionals in business turnaround, restructuring, and bankruptcy practice, and of the Certified Insolvency and Restructuring Advisor (CIRA) designation as an assurance of expertise in this area.

We write to make you aware of serious concerns we have regarding a provision contained in S. 256, the ''Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.'' The provision in question effectively prohibits the use of key employee retention plans in Chapter 11 reorganizations. It was added during the Judiciary Committee mark-up of the bill and elicited little attention at the time. However, we believe this provision will cause considerable harm to a number of companies that will become subject to bankruptcy proceedings, and, most importantly, to their employees, customers, and creditors.

When a company is operating in Chapter 11, a primary responsibility of management is to maintain and grow the company's value for the benefit of all of its stakeholders. A company that is well-managed through its restructuring benefits its creditors, employees, retirees, unions and the local communities of which the company is a part. Companies that fail to successfully reorganize in Chapter 11 are liquidated. Creditors receive pennies on the dollar and employees see their jobs and retirement savings destroyed.

When companies enter Chapter 11, it is critical that they attract and retain top management talent. But Chapter 11 is also the most difficult time to attract and retain such talent. Managers of Chapter 11 companies are faced with intense scrutiny, stress, insecurity, and an enormously complex process. Compensation and incentive tools used by non-bankrupt companies such as equity compensation programs are not available to assist with attracting and retaining the type of management talent necessary to bring the company successfully through the Chapter 11 process—this is because the pre-petition equity is almost always without value. Key employee retention plans (''KERPs'') have become common practice since the early 1990's and have been viewed by courts, debtors, and creditors alike as an important and useful way to help reorganization by retaining key employees.

Bankruptcy courts have agreed with this reasoning, and many judges have used their judicial discretion to approve KERPs. For a court to approve a KERP under existing law, however, a debtor must use proper business judgment in formulating the program, and the court must find the program to be reasonable and fair. Creditors have the right to object to proposed KERPs, and judges are presented with a full evidentiary record upon which to make a determination. If a KERP is not appropriate or if it is not in the best interest of the company's creditors, the judge can refuse to approve it.

In the last few years, there has been a trend, with which we agree, towards stricter judicial scrutiny of proposed KERPs by bankruptcy judges. Such a trend seems appropriate in the wake of numerous high profile bankruptcy filings where management's misconduct or mismanagement has led to the Chapter 11 filing. Judges have discretion to deny KERPs in these circumstances, and they do so when the facts and circumstances warrant.

Unfortunately, S. 256 as reported by the Senate Judiciary Committee includes an amendment authored by Senator Edward M. Kennedy (the Kennedy amendment) that places significant limits on retention bonuses and severance payments to employees of companies in Chapter 11. It would prohibit a bankruptcy judge from approving retention bonuses in every Chapter 11 case unless he or she finds that the company in question has proven that the employee has a bona fide job offer at the same or greater rate of compensation; was prepared to accept the job offer; and the services of that employee are ''essential to the survival of the business.'' The amendment also places significant caps on the amount of such bonus and payments.

The Kennedy amendment appears to be motivated by a desire to combat KERPs in Chapter 11 cases where employee-related fraud substantially contributed to the bankruptcy of the company. Yet, by painting with such a broad brush, the Kennedy amendment will, if enacted, effectively eliminate all companies' ability to ever receive court approval for a KERP. Federal bankruptcy judges would have little or no discretion to approve KERPs. In turn, bankrupt companies would have less flexibility in trying to retain or attract necessary employees. This result will cause considerable harm to companies in bankruptcy, their employees, and their creditors.

It is apparent that the Kennedy amendment is designed to prevent abuses of the system, where creditors', employees' and retirees' monies are unnecessarily expended for the enrichment of management. Whether there currently is or is not sufficient judicial scrutiny of KERPs is a valid question, insofar as the overall bankruptcy system allows debtors a fair amount of flexibility in exercising reasonable judgment—but there must be an approach better than handcuffing the judiciary and stakeholders in bankruptcy cases by essentially precluding all use KERPs. The proper use of KERPs requires an analysis of all facts and circumstances of the case, and not what is essentially a blanket proscription of these tools.

Senator Kennedy has advanced an important public policy discussion with his amendment. Managers who have had responsibility for driving a company into bankruptcy should not be paid a bonus to remain. Similarly, if the retention of an employee would not enhance a company's value for its stakeholders, they should not be paid a bonus to stay. Current law provides bankruptcy judges with the discretion necessary to deny a KERP in such circumstances and bankruptcy judges do deny KERP payments in these circumstances. Still, if the Congress wishes to improve the operation of current law while still safeguarding the ability of the courts to approve legitimate KERPs, we would welcome a discussion on how best to achieve that end. Unfortunately, S. 256, as reported by the Committee, goes too far and should be amended so as not to unnecessarily limit the bankruptcy court's ability to determine what is in the best interest of each individual bankruptcy estate.

Mr. Chairman, we thank you for considering our views on this important matter. We would be pleased to address any questions you or other members of the Committee on the Judiciary may have.

Sincerely,

The members of the board and management of the Association of Insolvency and Restructuring Advisors.

Soneet R. Kapila, CIRA, Kapila & Company; President, AIRA.

James M. Lukenda, CIRA, Huron Consulting Group; Chairman, AIRA.

Grant Newton, CIRA, Executive Director, AIRA.

Daniel Armel, CIRA, Baymark Strategies LLC.

Dennis Bean, CIRA, Dennis Bean & Company.

Francis G. Conrad, CIRA, ARG Capital Partners LLP.

Stephen Darr, CIRA, Mesirow Financial Consulting LLC.

Louis DeArias, CIRA, PricewaterhouseCoopers LLP.

James Decker, CIRA, Houlihan Lokey Howard & Zukin.

Mitchell Drucker, CIT Business Credit.

Howard Fielstein, CIRA, Margolin Winer & Evens LLP.

Philip Gund, CIR, Marotta Gund Budd & Dzera LL.

Gina Gutzeit, FTI Palladium Partners.

Alan Holtz, CIRA, Giuliani Capital Advisors LLC.

Margaret Hunter, CIRA, Protiviti Inc.

Alan Jacobs, CIRA, AMJ Advisors LLC.

David Judd, Neilson Elggren LLP.

Bernard Katz, CIRA, JH Cohn LLP.

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Kenneth Lefoldt, CIRA, Lefoldt & Company.

William Lenhart, CIRA, BDO Seidman LLP.

Kenneth Malek, CIRA, Navigant Consulting Inc.

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Thomas Morrow, CIRA, AlixPartners LLC.

Michael Murphy, Mesirow Financial Consulting LLC.

Steven Panagos CIRA, Kroll Zolfo Cooper LLC.

David Payne, CIRA, D R Payne & Associates Inc.

David Ringer, CIRA, Eisner LLP.

Anthony Sasso, CIRA, Deloitte.

Matthew Schwartz, CIRA, Bederson & Company LLP.

Keith Shapiro, Esq., Greenberg Traurig LLP.

Grant Stein, Esq., Alston & Bird LLP.

Peter Stenger, CIRA, Stout Risius Ross Inc.

Michael Straneva, CIRA, Ernst & Young LLP.

Mr. Speaker, I urge again the adoption of S. 256.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from North Carolina (Mr. WATT), the ranking member of the Subcommittee on Commercial and Administrative Law.

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

Mr. Speaker, those of us who started this process 6 years or so ago in the good faith belief that there were problems with the bankruptcy system, in the sense that people were gaming the system, and felt that there needed to be genuine reform cannot help but be disappointed today because, in the process, we have lost sight of the objective of reforming to do away with the sinister influences and the advantageous corruption that is going on in the system.

I have never seen a bill that has violated more principles throughout this process. The first one was that the consumers and the lenders got together and decided that, because the lenders were not sure that they could do bankruptcy reform without reaching a compromise and the consumer groups realized that they might not be able to stop bankruptcy reform, they set up this system called the means test, which effectively exempted from the whole bankruptcy reform system those who fall below the means test threshold. The result is that individuals who fall below the means test threshold can continue with impunity to game the system without any kind of responsibility, and those who fall above the threshold get subjected to a set of arbitrary rules that, even if they are not gaming the system, they are taken advantage of. So we have lost sight of that.

The second thing is we have built in a set of perverse incentives for easy credit now. For people who fall below the means test, there is really no disincentive for them to go out and get as much credit as they can. And for people above the means test there is no incentive for lenders to be responsible in their lending practices, because they know now they have this system that is going to protect them from people that they have made irresponsible loans to.

The third problem is that, as we have gone through this process, the more we have bought into this means test philosophy and debated this, we now get to a point at the end of the process where it has corrupted even our democratic process. Because we are here on the floor with 30 minutes of debate on our side to tell the public the problems with this bill.

This is irresponsible legislating at its worst, and I encourage my colleagues to reject this bill and vote no.

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

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. NADLER), the former ranking member of the Subcommittee on Commercial and Administrative Law. This is an 8-year-old bill, and the gentleman has been foremost in this process for all of those years.

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

Mr. Speaker, this bill is the worst giveaway to special interests, the worst rip-off of the public, of the middle class than I have ever seen in my public life. The people who understand how bankruptcy law functions in the real world, the scholars, judges, trustees and lawyers, whether they represent debtors, creditors, businesses or individuals, have all told us this bill will not work, that it will be costly, and that it will produce unfair and irrational results. But we are ignoring them, trusting instead lobbyists, credit card companies, banks, and anyone else who wants a special favor; and, boy, are there special favors galore.

The credit card companies are the big winners, but so are shopping centers, car lenders, crooked debt collectors, investment bankers, credit unions, and assorted sub-prime lenders.

Those credit counseling operations that we have investigated for dishonest activity, they now get a monopoly on granting access to bankruptcy. Credit card companies that want their debts to survive the bankruptcy and compete with child support claims, they get their wish. Landlords who want to boot tenants out of their apartments, it is easier.

Did you buy a trailer home or a car on credit? Now you will have to pay the lender more than the home or car is worth to keep it.

Are you a tax collector? There is an entire title in the bill just to squeeze more money out of debtors.

Are you a pawnbroker? Section 1230 is for you. You get to keep the pawned property, and it cannot be sold to pay other debts like child support or medical expenses. That is right. Congress is more worried about the rights of pawnbrokers than about the rights of children.

So what is going on here? Why are bankers and bureaucrats telling us this bill is great for single parents with children while children and family advocates are telling us that it is not? Why does Congress believe studies paid for by the credit card industry that label millions of Americans crooks, while ignoring our own Congressional Budget Office, the independent and nonpartisan American Bankruptcy Institute, and the Government Accountability Office, all say these studies are bunk?

The supporters say if we help the banks collect more money from bankrupt families, we will not have to pay that $400 bankruptcy tax. Our interest rates will go down because the banks will be able to collect more money. But the Republican leadership would not allow us to consider an amendment that would sunset the bill in several years if no savings are passed on to consumers, and they will not be. Interest rates have come down over the last 10 years on mortgages, on cars, on everything, but not on credit cards.

Does anyone here trust VISA and MasterCard? Because we are writing them a blank check paid for with taxpayer money and trusting them to share the benefits with American consumers. Trust the banks. Trust the lobbyists. Do not trust the people who do these cases for a living. Do not trust the advocates for women and kids. Do not trust the civil rights community. Do not trust the laboring community. Do not trust disabled veterans and military family advocates. Do not trust crime victims organizations.

Trust the banks. Trust the credit card companies. Trust VISA card. Trust MasterCard. They are the beneficiaries. The public will be the victims, and we will rue the day in a few years when the 60 or 70 different ways in which this bill enables the credit card companies to stick their hands in the pockets of low- and middle-income people and extremists going bankrupt because of a medical emergency, and take more money out of that. Then the voters will know who really owns this place.

Mr. Speaker, this bill is the worst giveaway to special interests, the worst rip-off of the public, of the middle class, I have ever seen in my public life.

Mr. Speaker, it is fitting that this House take up this 512-page goodie bag for every special interest in town. Just yesterday, the Republican majority rammed through a bill that would eliminate the estate tax for the very wealthiest Americans. At least the Republican majority is consistent: more for the very wealthy, no responsibility for big banks, and squeeze the middle class.

This bill, which can only be described as the poster-child for campaign finance reform, will soon shoot through this House and to a President who has vowed that he would sign it.

Mr. Speaker, bankruptcy is notoriously complicated, but the members of this House have certainly never let the complexity of a problem get in the way of a good deal. The people who understand how bankruptcy law functions in the real world: the scholars, judges, trustees, and lawyers—whether they represent debtors, creditors, businesses or individuals—have all told us this bill won't work, that it will be costly, that it will produce unfair and irrational results. But we are ignoring them, trusting instead lobbyists, credit card companies, banks, and anyone else who wants some special favor.

And boy, are there favors galore. The credit card companies are the big winners, but so are shopping centers, car lenders, crooked debt collectors, investment bankers, credit unions, and assorted sub-prime lenders.

Those credit counseling operations that we've investigated for dishonest activity? They now get a monopoly on granting access to bankruptcy. Credit card companies that want their debts to survive the bankruptcy and compete with child support claims? They get their wish?

Landlords who want to boot tenants out of their apartments? This bill makes it easier.

Did you buy a trailer home or a car on credit? Now you will have to pay the lender more than the home or car is worth to keep it.

Are you a tax collector? There is an entire title in this bill just for you to squeeze more money out of debtors.

Are you a pawn broker? Section 1230 is for you! You get to keep the pawned property and it can't be sold to pay other debts, like child support, or medical expenses. That's right, Congress is more worried about the rights of pawn brokers than about the rights of children.

So what's going on here? Why are bankers and bureaucrats telling us that this bill is great for single parents with children while children and family advocates are telling us that it is not? More to the point—why are so many members of Congress so willing to believe bankers over the people who we work with day in and day out to protect the rights of children?

Why does Congress believe studies paid for by the credit card industry that label millions of Americans crooks, while ignoring our own Congressional Budget Office, the independent and non-partisan American Bankruptcy Institute, and the Government Accountability Office, all of whom tell us these studies are bunk?

Why are we willing to spend so much public money to collect private debts for banks? According to the Congressional Budget Office, this bill will cost the government $392 million over the first 5 years, increasing the deficit by $280 million. It will impose new costs on the private sector of more than $123 million per year, in violation of the Unfunded Mandate Reform Act. That number does not include increased costs to debtors.

What are we spending this money on?

Means testing alone will cost the government $150 million over the first 5 years.

The government will be a private collection agency for credit card companies. Government funded audits will cost $66 million. The government will collect and store debtors' tax returns for another $10 million.

Just to administer this whole mess, we will spend another $26 million on extra judges—and no one here thinks that will be enough.

So why should taxpayers spend all these millions to collect private debts for MasterCard and Visa? I asked George Wallace, the representative of the creditor coalition, that question. I asked whether he was aware that current law gives creditors the right to challenge the discharge of debts, examine debtors under oath, demand any documents from the debtors, seek dismissal of a case, and many other legal remedies.

He said ''I have done these things and they do take a fair amount of time and I bill my clients for them. They are expensive.'' So I asked him why the government should pay to collect these debts if the banks think it's too expensive to collect their debts themselves.

His response explains this whole bill. ''Because it's a governmental program, sir. Because it is not the job of the creditor.''

A governmental program? We need to spend millions of taxpayer dollars to help the nation's biggest banks collect money from bankrupt families? Is this the new welfare?

I want to thank Mr. Wallace for his honesty. He may be the only honest lobbyist left in Washington.

Some will say that if we help the banks collect more money from bankrupt families, then we won't have to pay that $400 ''bankruptcy tax.'' Our interest rates will go down because the banks will be able to collect more money.

The distinguished chairman of the Judiciary Committee has made this the cornerstone of the legislation. He recently told the Financial Times of London, ''The responsible thing for the credit card issuers to do would be to reduce interest rates because there is less risk. If they don't they will play into the hands of the opponents of the bill—it would reduce their credibility.''

I agree, but the Republican leadership wouldn't allow us to consider an amendment that would sunset the bill in 2 years if no savings are passed on to consumers. So I guess we're being asked to trust the biggest banks in America not to pocket the extra money. And they won't be. Interest rates have come down. Mortgage rates, car loans, but not credit card rates.

Ask yourself: Where's my $400? Does any one here trust Visa and MasterCard? Because you are writing them a blank check, paid for with taxpayer money, and trusting them to share the benefits with American consumers.

Anyone who really trust them to do this, raise your hand. Anyone?

Go ahead and vote for this. Why not? It's a done deal. Trust the banks. Trust the lobbyists. Don't trust the people who do these cases for a living. Don't trust the advocates for women and kids. Don't trust the civil rights community. Don't trust labor. Don't trust disabled veterans' and military family advocates. Don't trust crime victims organizations. Trust the banks. Trust Visa. Trust MasterCard.

At least the voters will know who really runs this place.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PUTNAM). The Chair reminds Members that they should heed the gavel.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. GOODLATTE).

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

Mr. GOODLATTE. Mr. Speaker, bankruptcy filings are at an all-time high. When bankruptcy filings increase, every American must pay more for credit, goods, and services through higher rates and charges. It is time that we relieve consumers from the burden of paying for the debts of others.

Since the 105th Congress, the House has passed bankruptcy reform legislation eighty times. S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act, is the culmination of years of work and bicameral as well as bipartisan negotiations.

A key aspect of S. 256 is retention of the income-based means test. The means test applies clear and well-defined standards to determine whether a debtor has the financial capability to pay his or her debts. The application of such objective standards will help ensure that the fresh start provisions of Chapter VII will be granted to those who need them, while debtors that can afford to repay some of their debts are steered toward filing chapter 13 bankruptcies.

S. 256 is good for America's family farmers. As Chairman of the House Committee on Agriculture, I am pleased that we are finally making the chapter 12 provisions of the Bankruptcy Code permanent. Bankruptcy relief for family farmers will be made easier for those to obtain a discharge of their indebtedness. In addition, the bill allows more family farmers to qualify for chapter 12 relief by doubling the debt limit and lowering the percentage of income that must be derived from farming operations.

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In addition, S. 256 prevents fraud. Under the current system, irresponsible people filing for bankruptcy could run up their credit card debt immediately prior to filing knowing that their debts will soon be wind away. What these people may not realize or care about is that these debts do not just disappear. They are passed along in higher charges and rates to hard working people.

Mr. Speaker, I rise in strong support of the ''Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.''

Bankruptcy filings are at an all time high. When Bankruptcy filings increase every American must pay more for credit, goods, and services through higher rates and charges. It is time that we relieve consumers from the burden of paying for the debts of others.

Since the 105th Congress, the House has passed bankruptcy reform legislation eight times. S. 256, the ''Bankruptcy Abuse Prevention and Consumer Protection Act of 2005'' is the culmination of years of work and bicamerla, as well as bi-partisan negotiations.

A key aspect of S. 256 is the retention of the income-based means test. The means test applies clear and well-defined standards to determine whether a debtor has the financial capability to pay his or her debts. The application of such objective standards will help ensure that the fresh start provisions of Chapter 7 will be granted to those who need them, while debtors that can afford to repay some of their debts are steered toward filing Chapter 13 bankruptcies.

S. 256 is good for America's family farmers, who are the backbone of our agriculture industry. The bill permanently extends Chapter 12 bankruptcy relief for family farmers and makes it easier for family farmers to obtain discharges of their indebtedness. In addition, the bill allows more family farmers to qualify for Chapter 12 relief by doubling the debt limit and lowering the percentage of income that must be derived from farming operations.

In addition, S. 256 prevents fraud. Under the current system, irresponsible people filing for bankruptcy could run up their credit card debt immediately prior to filing, knowing that their debts will soon be wiped away. What these people may not realize or care about is that these debts do not just disappear—they are passed along in higher chargers and rates to hard-working folks who pay their bills on time. S. 256 ends this fraudulent practice by requiring bankruptcy filers to pay back nondischargable debts made in the period immediately preceding their filing.

S. 256 also helps consumers. For example, this legislation helps children by strengthening the protections in the law that prioritize child support and alimony payments. In addition, it protects consumers from ''bankruptcy mills'' that encourage people to file for bankruptcy without fully informing them of their rights and the potential harms that bankruptcy can cause.

S. 256 also ensures the fair treatment of those that administer our bankruptcy laws. Specifically, this legislation restores fairness and equity to the relationship between the U.S. trustee and private standing bankruptcy

trustees by providing that in certain circumstances, after an administrative hearing on the record, private trustees may seek judicial review of U.S. trustee actions related to trustee removal. This compromise, worked out between the U.S. trustee's office and representatives of the private bankruptcy trustees, will ensure fairness for those who dedicate themselves to their duties as private trustees while ensuring that the U.S. trustee is subject to the same checks and balances as other government agencies.

Bankruptcy should remain available to people who truly need it, but those who can afford to repay their debts should repay their debts. S. 256 provides bankruptcy relief for those who truly cannot pay their debts, but also clearly demonstrates to those who would abuse our system that the free ride is over. I believe that S. 256 strikes the appropriate balance between these two important goals. I want to commend Chairmen SENSENBRENNER and CANNON for their tremendous work on this legislation, and I urge each of my colleagues to support this fair and reasonable overhaul of the U.S. bankruptcy system.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentlewoman from Houston, Texas (Ms. JACKSON-LEE), a member of the committee.

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I think it is important as we debate this question that the opponents of this bill not be defined or classified as opposing responsibility and opposing the responsibility of being a good citizen and adhering to the debt that you accrue. I think that is a wrong-headed definition of the opponents.

We have been described as nonpatriot in other debates; in war and peace, scoundrels and socialists. But I think it is important for the American people to understand that we are engaging in a democratic process to be able to allow a voice of opposition to be heard for a tainted, stale and stagnant piece of legislation that has been bought and paid for by special interests.

Our desire is to possibly encourage our colleagues in the House to take a serious and deliberative review of S. 256.

Now, we have heard already that we were refused and denied amendments and one would ask the question why. If we are a deliberative body, why not make a bill that is as dated almost as the Gulf War, not the Iraq war, to make it better.

Now, I hear my colleagues talking about $400 that will go to each household. What a misnomer. Someone said that there was a tax refund a couple of years ago, $350, $400. I can tell you that the constituents in the 18th Congressional District never saw that money. I would like to suggest to you that really what is happening is what Professor Elizabeth Warren has said, that this is an overreaching problem, the overreaching problem with this bill this time is that the American economy has passed it by.

We are in the depth almost of a deficit that is about to stagnate and stifle us. This bill will close the door to working and middle class persons. Since this bill was written, Mr. Speaker, Enron, WorldCom, Adelphia, United Airlines, LTV Steel, M-Mart, Polaroid, Global Crossing have filed bankruptcy and they did not have to use a means test.

So let me suggest to you as I look at the medical conditions, I would ask my colleagues on the other side of the aisle does their stale old bill, this stack of old papers respond to the medical causes of bankruptcy that shows that because there is death in the family, illness or injury, people who go try to repay their bills and they fall into bankruptcy and this old stale 1998 bill does not respond to that.

My next question, Mr. Speaker, is whether or not this old stale bill deals with the military, the military who is in Iraq right now, does this old stale bill deal with it? Does the old stale bill deal with the loan sharks. That is a travesty and should be defeated.

TESTIMONY OF ELIZABETH WARREN BEFORE THE SENATE COMMITTEE ON THE JUDICIARY

My name is Elizabeth Warren. I teach bankruptcy law. As some of you know, I have followed this issue with interest for some time.

The overarching problem with this bill is that time and the American economy have passed it by. It was drafted—never mind by whom—eight years ago. Even if it had been a flawless piece of legislation then, and it surely was not, the events of the past eight years have dramatically changed the economic and social environment in which you must consider this bill.

In the eight years since this bill was introduced, new cases have burst on the scene. The names are burned in our collective memories: Enron, Worldcom, Adelphia, United Airlines, USAirways and TWA, LTV Steel, K-Mart, Polaroid, Global Crossing.

While the actual number of consumer bankruptcy cases has declined slightly in the past year, many of the largest corporate bankruptcy cases in American history have occurred since the Senate last reevaluated the bankruptcy laws, and some of those cases are already legend for the corporate scandals that accompanied them. Because it was written eight years ago, this bill has nothing to deal with these abuses, with these dangers, with the needs that these cases have made so painfully clear.

Problems not even on the horizon when this bill was written are now front and center.

Companies in Chapter 11 that cancel pension plans and health benefits, leaving thousands of families economically devastated.

Companies that continue to pay executives and insiders tens of millions of dollars, while they demand concessions from their creditors.

Military families targeted for payday loans at 400% interest, insurance scams, and other forms of financial chicanery.

Scandals have rocked the so-called nonprofit credit counseling industry, exposing how tens of thousands of consumers struggling desperately to pay their bills and not file for bankruptcy were cheated.

Sub-prime mortgage companies, financed by some of the best names in American banking, have unlawfully taken millions of dollars from homeowners, then fled to the bankruptcy courts to protect their insiders and bank lenders.

In the eight years since this bill was introduced, there has been a revolution in the data available to us. Unlike eight years ago, we need not have a theoretical debate about who turns to the bankruptcy system. We now know:

One million men and women each year are turning to bankruptcy in the aftermath of a serious medical problem—and three-quarters of them have health Insurance.

A family with children is nearly three times more likely to file for bankruptcy than an individual or couple with no children.

More children now live through their parents' bankruptcy than through their parents' divorce.

Unlike eight years ago, we need not have a theoretical debate about the homestead exemption because we have had example after example of abuse tied directly to the failure of American companies. Millions of jobs have been lost but not the Florida and Texas fortunes of their corporate executives. Others are welcome to use the unlimited homestead exemption as well.

After he lost a $33 million lawsuit in California, O.J. Simpson moved to Florida, explaining to a reporter that the unlimited exemption would permit him to protect a multimillion-dollar house.

Abe Grossman ran up $233 million in debts in Massachusetts and Rhode Island, then fled to Florida to purchase a 64,000 square foot home valued at $55 million.

Some physicians are reportedly dropping their malpractice insurance and putting all their assets in their homes—where they can't be touched by bankruptcy.

Under S. 256, they would still be welcome to file for bankruptcy and to keep their fortunes and properties intact while leaving their creditors with nothing.

Unlike eight years ago, we need not have a theoretical debate about the effects of the proposed legislation on small business.

It takes time to negotiate a reorganization, even for a small company. The timelines in S. 256 would have denied reorganization to more than a third of the small businesses that eventually saved themselves—destroying value for the companies, their creditors, their employees and their communities.

This bill would be the first in American history to discriminate affirmatively against small businesses. For the first time ever, Congress would pass a law that says companies like Enron and Worldcom don't have to file extra forms, Enron and Worldcom don't have to schedule meetings with the Office of the United States Trustee, and Enron and Worldcom don't have to meet fixed deadlines that a judge cannot waive for any reason—but every troubled small business in the Chapter 11 system would have to file those papers, undergo that supervision and meet those deadlines or be liquidated. No exceptions allowed for small companies.

Unlike eight years ago, we need not have a theoretical debate about the economic impact of bankruptcies on credit card company profits.

In the eight years since this bill was introduced, credit has not been curtailed. Minors—under 18 years of age—with no incomes and no credit history are now described as an ''emerging market'' for the credit industry. Credit card solicitations have doubled to 5 billion a year. Bankruptcy filings have increased 17 percent, while credit card profits have increased 163 percent, from $11.5 billion to $30.2 billion.

Some courts have demanded that credit card companies disclose how much of their claims are the amounts actually borrowed and how much are fees, penalties and interest. Companies have admitted that for every

dollar they claim the customer borrowed, they are demanding two more dollars in fees and interest.

With increased fees and universal default clauses that drive up interest rates even for customers paying on time, a growing number of people have no option but to declare bankruptcy. Cases continue to surface like In re McCarthy, in which a woman borrowed $2200, paid back $2010 in the two years before bankruptcy, and was told by her credit card company that she still owed $2600 more. Ms. McCarthy had two choices: She could either declare bankruptcy or she could pay $2000 every year for life—and die owing as much as she owes today.

The means test in this bill, Section 102, has been one of its most controversial provisions. Proponents like to say that the means test will put pressure only on the families that can afford to repay. And yet, the bill has 217 sections that run for 239 pages. The means test aside, virtually every consumer provision aims in the same direction. The bill increases the cost of bankruptcy protection for every family, regardless of income or the cause of financial crisis, and it decreases the protection of bankruptcy for every family, regardless of income or the cause of financial crisis.

There are provisions that will make Chapter 13 impossible for many of the debtors who would file today, provisions that make it easier than ever to abuse the unlimited homestead provisions in some states and yet at the same time hurt people with more modest homesteads in those same states. Other provisions will compromise the privacy of millions of families by putting their entire tax returns in the court files and potentially on the Internet, making them easy prey for identity thieves. Women trying to collect alimony or child support will more often be forced to compete with credit card companies that can have more of their debts declared non-dischargeable. All these provisions apply whether a person earns $20,000 a year or $200,000 a year.

But the means test as written has another, more basic problem: It treats all families alike. It assumes that everyone is in bankruptcy for the same reason—too much unnecessary spending. A family driven to bankruptcy by the increased costs of caring for an elderly parent with Alzheimer's disease is treated the same as someone who maxed out his credit cards at a casino. A person who had a heart attack is treated the same as someone who had a spending spree at the shopping mall. A mother who works two jobs and who cannot manage the prescription drugs needed for a child with diabetes is treated the same as someone who charged a bunch of credit cards with only a vague intent to repay. A person cheated by a subprime mortgage lender and lied to by a credit counseling agency is treated the same as a person who gamed the system in every possible way.

If Congress is determined to sort the good debtors from the bad, then it is both morally and economically imperative that they distinguish those who have worked hard and played by the rules from those who have shirked their responsibilities. If Congress is determined to sort the good from the bad, then begin by sorting those who have been laid low by medical debts, those who lost their jobs, those whose breadwinners have been called to active duty and sent to Iraq, those who are caring for elderly parents and sick children from those few who overspend on frivolous purchases.

This Congress wants to set a new moral tone. Do it with the bankruptcy bill. Don't press ''one-size-fits-all-and-they-are-all-bad'' judgments on the very good and the very bad. Spend the time to make the hard decisions. Leave discretion with the bankruptcy judges to evaluate these families. Based on the Harvard medical study and other research, I think you will find that most debtors are filing for bankruptcy not because they had too many Rolex watches and Gameboys, but because they had no choice.

You have a choice. It's a choice that you're making for the American people. Adopt new bankruptcy legislation. Establish a means test that targets abuse. But do not enact a proposal written to address myth and mirage more than reality. Do not enact a proposal written for 1997 when the problems of the American corporate economy in 1997 deserve far more attention and the problems of the American middle class can no longer be ignored.

Overwhelmingly, American families file for bankruptcy because they have been driven there—largely by medical and economic catastrophe—not because they want to go there. Your legislation should respect that harsh reality and the families who face it.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PUTNAM). The gentlewoman is out of order in defying the gavel.

The gentlewoman's time has expired.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, it is about great pleasure that I rise today to express my strong support for the Bankruptcy Abuse Prevention and Consumer Protection Act.

A Chinese proverb says, Give a man a fish and you feed him for a day. Teach a man to fish and you feed him for a lifetime. And that is exactly what this bill before us does today.

There are many reasons to support this bankruptcy reform bill, but I want to focus on one that is important to many of my colleagues, to me, and to the American people.

We should support the bill because it contains important financial literacy provisions. Financial literacy goes hand in hand with helping our citizens of all ages and walks of life to negotiate the complex world of personal finance. Financial literacy can help Americans avoid or survive bankruptcy.

We pass many laws that require the disclosure of the terms and conditions of the rich mix of financial products and services that are available to consumers. Unfortunately for too many Americans, knowing the terms and conditions of financial products and services is challenging enough. However, understanding those terms and conditions is often an even greater challenge.

Recognizing this fact, Congress included provisions in the Fair and Accurate Credit Transactions Act to address the issue of financial literacy. The Bankruptcy Abuse Prevention and Consumer Protection Act also contains important provisions addressing economic education and financial literacy. These provisions are designed to ensure that those who enter the bankruptcy system will learn the skills to more effectively manage their money in an increasingly complicated marketplace.

Last week we passed House Resolution 148, a bill that supports the goals and ideals of Financial Literacy Month, which is this month, April 2005. H. Res. 148 was co-sponsored by 82 Members of this body, and 409 Members of this body voted for it.

Mr. Speaker, the number of bankruptcies remain at a historic high, over 1.6 million bankruptcy cases were filed in Federal courts in 2004. With this in mind, I urge my colleagues to support this bill.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. ZOE LOFGREN), a distinguished member of the committee.

Ms. ZOE LOFGREN of California. Mr. Speaker, this bill hurts Americans. One group who will be especially hurt are family forced into bankruptcy because of a medical crisis.

A recent study conducted by professors at Harvard Medical and Law School showed that about half of all personal bankruptcies can be attributed to medical costs.

Among those who cited illnesses as a cause of bankruptcy, the average unreimbursed medical costs totaled nearly $12,000 even though more than three-quarters had health insurance.

How does the bill hurt the families? Under the bill for the first time there will be a presumption that many of these families abuse the bankruptcy system. Under current law, people facing a medical bankruptcy can seek several forms of relief. Chapter 7 is by far the most common. Under 7 debtors are required to forfeit all of their property other than the exempt assets in exchange for having their debts extinguished.

Current law already gives bankruptcy courts discretion to deny chapter 7 relieve where the filing is found to be a substantial abuse. But unlike this bill, current law provides a presumption in favor of granting relief to the debtor.

The other option is chapter 13 where a debtor is required to continue paying creditors. This makes it more difficult for debtors to get back on their feet.

This bill will hurt families facing medical bankruptcy because it will force many of them into chapter 13. That is because it presumes that these families are abusing the bankruptcy system if they fail the means test. The means tests starts with a family's income and then subtracts monthly expenses permitted by IRS guidelines. But instead of using a debtor's actual projected income, the means tests uses the debtor's average income over the prior 6 months. Thus, if a family's bankruptcy was triggered by a loss of income resulting from a serious illness, the means test would still attribute the lost income for the purpose of determining whether the family is abusing the bankruptcy system.

Further, the means test uses the median income for a State. My constituents in Santa Clara County live in a

high-cost area. Almost nobody will be able to discharge their debts in bankruptcy from Santa Clara County because of that high cost, no matter how meritorious for their claim for relief.

Similarly, instead of using the debtor's actual expenses, the inflexible guidelines developed by the IRS is used. As a result, more families facing medical bankruptcy will be presumed to be abusing the system, will be forced into chapter 13 and will never be able to stand on their feet again. That is not right.

The Harvard study found that these struggling families did everything they could to pay their medical bills to avoid bankruptcy. One in five skipped meals. One-third had their electricity cut off. Almost half lost their phone service. One in five was forced to move.

Incredibly, they also cut back on needed medications to try to avoid bankruptcy. In fact, half went without needed prescriptions. And a full 60 percent went without a needed doctor appointment.

Please join me in opposing this unfair bill.

[From Market Watch]

ILLNESS AND INJURY AS CONTRIBUTORS TO BANKRUPTCY

(By David U. Himmelstein, Elizabeth Warren, Deborah Thorne, and Steffie Woolhandler)

ABSTRACT: In 2001, 1.458 million American families filed for bankruptcy. To investigate medical contributors to bankruptcy, we surveyed 1,771 personal bankruptcy filers in five federal courts and subsequently completed in-depth interviews with 931 of them. About half cited medical causes, which indicates that 1.9–2.2 million Americans (filers plus dependents) experienced medical bankruptcy. Among those whose illnesses led to bankruptcy, out-of-pocket costs averaged $11,854 since the start of illness; 75.7 percent had insurance at the onset of illness. Medical debtors were 42 percent more likely than other debtors to experience lapses in coverage. Even middle-class insured families often fall prey to financial catastrophe when sick.

''If the debtor be insolvent to serve creditors, let his body be cut in pieces on the third market day. It may be cut into more or fewer pieces with impunity. Or, if his creditors consent to it, let him be sold to foreigners beyond the Tiber.''

—Twelve Tables, Table III, 6 (ca. 450 B.C.)

Our bankruptcy system works differently from that of ancient Rome; creditors carve up the debtor's assets, not the debtor. Even so, bankruptcy leaves painful problems in its wake. It remains on credit reports for a decade, making everything from car insurance to house payments more expensive. Debtors' names are often published in the newspaper, and the fact of their bankruptcy may show up whenever someone tries to find them via the Internet. Potential employers who run routine credit checks (a common screening practice) will discover the bankruptcy, which can lead to embarrassment or, worse, the lost chance for a much-needed job.

Personal bankruptcy is common. Nearly 1.5 million couples or individuals filed bankruptcy petitions in 2001, a 360 percent increase since 1980. Fragmentary data from the legal literature suggest that illness and medical bills contribute to bankruptcy. Most previous studies of medical bankruptcy, however, have relied on court records—where medical debts may be subsumed under credit card or mortgage debt—or on responses to a single survey question. None has collected detailed information on medical expenses, diagnoses, access to care, work loss, or insurance coverage. Research has been impeded both by the absence of a national repository for bankruptcy filings and by debtors' reticence to discuss their bankruptcy, in population-based surveys, only half of those who have undergone bankruptcy admit to it.

The health policy literature is virtually silent on bankruptcy, although a few studies have looked at impoverishment attributable to illness. In his 1972 book, Sen. Edward Kennedy (D–MA) gave an impressionistic account of ''sickness and bankruptcy.'' The likelihood of incurring high out-of-pocket costs was incorporated into older estimates of the number of underinsured Americans: twenty-nine million in 1987. About 16 percent of families now spend more than one-twentieth of their income on health care. Among terminally ill patients (most of them insured), 39 percent reported that health care costs caused moderate or severe financial problems. Medical debt is common among the poor, even those with insurance, and interferes with access to care. At least 8 percent, and perhaps as many as 21 percent of American families are contacted by collection agencies about medical bills annually.

Our study provides the first extensive data on the medical concomitants of bankruptcy, based on a survey of debtors in bankruptcy courts. We address the following questions: (1) Who files for bankruptcy? (2) How frequently do illness and medical bills contribute to bankruptcy? (3) When medical bills contribute, how large are they and for what services? (4) Does inadequate health insurance play a role in bankruptcy? (5) Does bankruptcy compromise access to care?

A BRIEF PRIMER ON BANKRUPTCY

''Bankrupt'' is not synonymous with ''broke.'' ''Bankrupt'' means filing a petition in a federal court asking for protection from creditors via the bankruptcy laws. A single petition may cover an individual or married couple. The instant a debtor files for bankruptcy, the court assumes legal control of the debtor's assets and halts all collection efforts.

Shortly after the filing, a court-appointed trustee convenes a meeting to inventory the debtor's assets and debts and to determine which assets are exempt from seizure. States may regulate these exemptions, which often include work tools, clothes, Bibles, and some equity in a home.

About 70 percent of all consumer debtors file under Chapter 7 of the Bankruptcy Code; most others file under Chapter 13. In Chapter 7 the trustee liquidates all nonexempt assets—although 96 percent of debtors have so little unencumbered property that there is nothing left to liquidate. At the conclusion of the bankruptcy, the debtor is freed from many debts. In Chapter 13 the debtor proposes a repayment plan, which extends for up to five years. Chapter 13 debtors may retain their property so long as they stay current with their repayments.

Under both chapters, taxes, student loans, alimony, and child support remain payable in full, and debtors must make payments on all secured loans (such as home mortgages and car loans) or forfeit the collateral.

STUDY DATA AND METHODS

This study is based on a cohort of 1,771 bankruptcy filings in 2001. For each filing, a debtor completed a written questionnaire at the mandatory meeting with the trustee, and we abstracted financial data from public court records. In addition, we conducted follow-up telephone interviews with about half (931) of these debtors.

Sampling strategy. We used cluster sampling to assemble a cohort to households filing for personal bankruptcy in five (of the seventy-seven total) federal judicial districts. We collected 250 questionnaires in each district, representative of the proportion of Chapters 7 and 13 filings in that district. These 1,250 cases constitute our ''core sample.'' For planned studies on housing, we collected identical data from an additional 521 homeowners filing for bankruptcy. We based our analyses on all 1,771 bankruptcies with responses weighted to maintain the representativeness of the sample.

Data collection. With the cooperation of the judges in each district, we contacted the trustees who officiate at meetings with debtors. The trustees agreed to distribute, or to allow a research assistant to distribute, a self-administered questionnaire to debtors appearing at the bankruptcy meeting. Questionnaires (which were available in English and Spanish) included a cover letter explaining the research project and human subjects protections and encouraging debtors to consult their attorneys (who were almost always present) before participating.

The questionnaire asked about demographics, employment, housing, and specific reasons for filing for bankruptcy, it also asked whether the debtor had medical debts exceeding $1,000, had lost two or more weeks of work-related income because of illness, or had health insurance coverage for themselves and all dependents at the time of filing, and whether there had been a gap of one month or more in that coverage during the past two years. In joint filings, we collected demographic information for each spouse.

During the spring and summer of 2001 we collected questionnaires from consecutive debtors in each district until the target number was reached.

Follow-up telephone interviews. The written questionnaire distributed at the time of bankruptcy filing invited debtors to participate in future telephone interviews, for which they would receive $50; 70 percent agreed to such interviews. We ultimately completed follow-up telephone interviews with 931 of the 1,771 debtor families, a response rate of 53 percent. The telephone interviews, conducted between June 2001 and February 2002 using a structured, computer-assisted protocol, explored financial, housing, and medical issues. Many debtors also provided a narrative description of their bankruptcy experience.

Detailed medical questions. Each of the 931 interviewees was asked if any of the following had been a significant cause of their bankruptcy: an illness or injury; the death of a family member; or the addition of a family member through birth, adoption, custody, or fostering. Those who answered yes to this screening question were queried about diagnoses, health insurance during the illness, and medical care use and spending. Interviewers collected information about each household member with medical problems. In total, we collected in-depth medical information on 391 people with health problems in 332 debtor households.

Data analysis. We used data from the self-administered questionnaires (and court records) obtained from all 1,771 filters to analyze demographics, health coverage at the time of filing, and gaps in coverage in the two years before filing.

We also used the questionnaire to estimate how frequently illness and medical bills contributed to bankruptcy. We developed two summary measures of medical bankruptcy. Under the rubric ''Major Medical Bankruptcy'' we included debtors who either (1) cited illness or injury as a specific reason for bankruptcy, or (2) reported uncovered medical bills exceeding $1,000 in the past years,

or (3) lost at least two weeks of work-related income because of illness/injury, or (4) mortgaged a home to pay medical bills. Our more inclusive category, ''Any Medical Bankruptcy,'' included debtors who cited any of the above, or addiction, or uncontrolled gambling, or birth, or the death of a family member.

Data from the 931 follow-up telephone interviews were used to analyze hardships experienced by debtors in the period surrounding their bankruptcy, including problems gaining access to medical care. The in-depth medical interviews regarding 391 people with medical problems are the basis for our analyses of which household members were ill, diagnoses, health insurance at onset of illness, and out-of-pocket spending. Two physicians (Himmelstein and Woolhandler) coded the diagnoses given by debtors into categories for analysis.

SAS and SUDAAN were used for statistical analyses, adjusting for complex sample design. To extrapolate our findings nationally, we assumed that our sample was representative of the 1,457,572 households filing for bankruptcy during 2001. Human subject committees at Harvard Law School and the Cambridge Hospital approved the project.

STUDY FINDINGS

Who files for bankruptcy? Exhibit 1 displays the demographic characteristics of our weighted sample of 1,771 bankruptcy filers. The average debtor was a forty-one-year-old woman with children and at least some college education. Most debtors owned homes; their occupational prestige scores place them predominantly in the middle or working classes.

On average, each bankruptcy involved 1.32 debtors (reflecting some joint filings by married couples) and 1.33 dependents. Extrapolating from our data, the 1.5 million personal bankruptcy filings nationally in 2001 involved 3.9 million people: 1.9 million debtors, 1.3 million children under age eighteen, and 0.7 million other dependents.

Medical causes of bankruptcy. Exhibit 2 shows the proportion of debtors (N = 1,771) citing various medical contributors to their bankruptcy and the estimated number of debtors and dependents nationally affected by each cause. More than one-quarter cited illness or injury as a specific reason for bankruptcy; a similar number reported uncovered medical bills exceeding $1,000. Some debtors cited more than one medical contributor. Nearly half (46.2 percent) (95 percent confidence interval = 43.5, 48.9) of debtors met at least one of our criteria for ''major medical bankruptcy.'' Slightly more than half (54.5 percent) (95 percent CI = 51.8, 57.2) met criteria for ''any medical bankruptcy.''

A lapse in health insurance coverage during the two years before filing was a strong predictor of a medical cause of bankruptcy (Exhibit 3). Nearly four-tenths (38.4 percent) of debtors who had a ''major medical bankruptcy'' had experienced a lapse, compared with 27.1 percent of debtors with no medical cause ($p < .0001$). Surprisingly, medical debtors were no less likely than other debtors to have coverage at the time of filing. (More detailed coverage and cost data for the subsample we interviewed appears below.)

Medical debtors resembled other debtors in most other respects (Exhibit 1). However, the ''major medical bankruptcy'' group was 16 percent ($p < 03$) less likely than other debtors to cite trouble managing money as a cause of their bankruptcy (data not shown).

Privations in the period surrounding bankruptcy. In our follow-up telephone interviews with 931 debtors, they reported substantial problems. During the two years before filing, 40.3 percent had lost telephone service; 19.4 percent had gone without food; 53.6 percent had gone without needed doctor or dentist visits because of the cost, and 43.0 percent had failed to fill a prescription, also because of the cost. Medical debtors experienced more problems in access to care than other debtors did; three-fifths went without a needed doctor or dentist visit, and nearly half failed to fill a prescription.

Medical debt was also associated with mortgage problems. Among the total sample of 1,771 debtors, those with more than $1,000 in medical bills were more likely than others to have taken out a mortgage to pay medical bills (5.0 percent versus 0.8 percent). Fifteen percent of all homeowners who had taken out a second or third mortgage cited medical expenses as a reason. Follow-up phone interviews revealed that among homeowners with high-risk mortgages (interest rates greater than 12 percent, or points plus fees of at least 8 percent), 13.8 percent cited a medical reason for taking out the loan.

Following their bankruptcy filings, about one-third of debtors continued to have problems paying their bills. Medical debtors reported particular problems making mortgage/rent payments and paying for utilities. Although our interviews occurred soon after the bankruptcy filings (seven months, on average), many debtors had already been turned down for jobs (3.1 percent), mortgages (5.8 percent), apartment rentals (4.9 percent), or car loans (9.3 percent) because of the bankruptcy on their credit reports.

Medical diagnoses, spending, and type of coverage. Our interviews yielded detailed data on diagnoses, health insurance coverage, and medical bills for 391 debtors or family members whose medical problems contributed to bankruptcy. In three-quarters of cases, the person experiencing the illness/injury was the debt or spouse of the debtor; in 13.3 percent, a child; and in 8.2 percent, an elderly relative.

Illness begot financial problems both directly (because of medical costs) and through lost income. Three-fifths (59.9 percent) of families bankrupted by medical problems indicated that medical bills (from medical care providers) contributed to bankruptcy; 47.6 percent cited drug costs; 35.3 percent had curtailed employment because of illness, often (52.8 percent) to care for someone else. Many families had problems with both medical bills and income loss.

Families bankrupted by medical problems cited varied, and sometimes multiple, diagnoses. Cardiovascular disorders were reported by 26.6 percent; trauma/orthopedic/back problems by nearly one-third; and cancer, diabetes, pulmonary, or mental disorders and childbirth-related and congenital disorders by about 10 percent each. Half (51.7 percent) of the medical problems involved ongoing chronic illnesses.

Our in-depth interviews with medical debtors confirmed that gaps in coverage were a common problem. Three-fourths (75.7 percent) of these debtors were insured at the onset of the bankrupting illness. Three-fifths (60.1 percent) initially had private coverage, but one-third of them lost coverage during the course of their illness. Of debtors, 5.7 percent had Medicare, 8.4 percent Medicaid, and 1.6 percent veterans/military coverage. Those covered under government programs were less likely than others to have experienced coverage interruptions.

Few medical debtors had elected to go without coverage. Only 2.9 percent of those who were uninsured or suffered a gap in coverage said that they had not thought they needed insurance; 55.9 percent said that premiums were unaffordable, 7.1 percent were unable to obtain coverage because of preexisting medical conditions, and most others cited employment issues, such as job loss or ineligibility for employer-sponsored coverage.

Debtors' out-of-pocket medical costs were often below levels that are commonly labeled catastrophic. In the year prior to bankruptcy, out-of-pocket costs (excluding insurance premiums) averaged $3,686 (95 percent CI = $2,693, $4,679) (Exhibit 5). Presumably, such costs were often ruinous because of concomitant income loss or because the need for costly care persisted over several years. Out-of-pocket costs since the onset of illness/injury averaged $11,854 (95 percent CI = $8,532, $15,175). Those with continuous insurance coverage paid $734 annually in premiums on average over and above the expenditures detailed above. Debtors with private insurance at the onset of their illnesses had even higher out-of-pocket costs than those with no insurance. This paradox is explained by the very high costs—$18,005—incurred by patients who initially had private insurance but lost it. Among families with medical expenses, hospital bills were the biggest medical expense for 42.5 percent prescription medications for 21.0 percent, and doctors' bills for 20.0 percent. Virtually all of those with Medicare coverage, and most patients with psychiatric disorders, said that prescription drugs were their biggest expense.

The human face of bankruptcy. Debtors' narratives painted a picture of families arriving at the bankruptcy courthouse emotionally and financially exhausted, hoping to stop the collection calls, save their homes, and stabilize their economic circumstances. Many of the debtors detailed ongoing problems with access to care. Some expressed fear that their medical care providers would refuse to continue their care, and a few recounted actual experiences of this kind. Several had used credit cards to charge medical bills they had no hope of paying.

The co-occurrence of medical and job problems was a common theme. For instance, one debtor underwent lung surgery and suffered a heart attack. Both hospitalizations were covered by his employer-based insurance, but he was unable to return to his physically demanding job. He found new employment but was denied coverage because of his preexisting conditions, which required costly ongoing care. Similarly, a teacher who suffered a heart attack was unable to return to work for many months, and hence her coverage lapsed. A hospital wrote off her $20,000 debt, but she was nevertheless bankrupted by doctor's bills and the cost of medications.

A second common theme was sounded by parents of premature infants or chronically ill children; many took time off from work or incurred large bills for home care while they were at their jobs.

Finally, many of the insured debtors blamed high copayments and deductibles for their financial ruin. For example, a man insured through his employer (a large national firm) suffered a broken leg and torn knee ligaments, He incurred $13,000 in out-of-pocket costs for copayments, deductibles, and uncovered services—much of it for physical therapy.

DISCUSSION

Bankruptcy is common in the United States, involving nearly four million debtors and dependents in 2001; medical problems contribute to about half of all bankruptcies. Medical debtors, like other bankruptcy filer, were primarily middle class (by education and occupation). The chronically poor are less likely to build up debt, have fewer assets (such as a home) to protect, and have less access to the legal resources needed to navigate a complex financial rehabilitation. The medical debtors we surveyed were demographically typical Americans who got sick. They differed from others filing for bankruptcy in one important respect: They were more likely to have experienced a lapse in

health coverage. Many had coverage at the onset of their illness but lost it. In other cases, even continuous coverage left families with ruinous medical bills.

Study strengths and limitations. Our study's strengths are the use of multiple overlapping data sources; a large sample size; geographic diversity; and in-depth data collection. Although our sample may not be fully representative of all personal bankruptcies, the Chapter 7 filers we studied resemble Chapter 7 filers nationally (the only group for whom demographic data has been complied nationally from court records). Several indicators suggest that response bias did not greatly distort our findings.

As in all surveys, we relied on respondents' truthfulness. Might some debtors blame their predicament on socially acceptable medical problems rather than admitting to irresponsible spending? Several factors suggest that our respondents were candid. First, just prior to answering our questionnaire, debtors had filed extensive information with the court under penalty of perjury—information that was available to use in the court records and that virtually never contradicted the questionnaire data. They were about to be sworn in by a trustee (who often administered our questionnaire) and examined under oath. At few other points in life are full disclosure and honesty so aggressively emphasized.

Second, the details called for in our telephone interview—questions about out-of-pocket medical expenses, who was ill, diagnoses, and so forth—would make a generic claim that ''we had medical problems'' difficult to sustain. Third, one of us (Thorne) interviewed (for other studies) many debtors in their homes. Almost all specifically denied spend-thrift habits, and observation of their homes supported these claims. Most reflected the lifestyle of people under economic constraint, with modest furnishings and few luxuries. Finally, our findings receive indirect corroboration from recent surveys of the general public that have found high levels of medical debt, which often result in calls from collection agencies.

Even when data are reliable, making casual inferences from a cross-sectional study such as ours is perilous. Many debtors described a complex web of problems involving illness, work, and family. Dissecting medical from other causes of bankruptcy is difficult. We cannot presume that eliminating the medical antecedents of bankruptcy would have preventing all of the filings we classified as ''medical bankruptcies.'' Conversely, many people financially ruined by illness are undoubtedly too ill, too destitute, or too demoralized to pursue formal bankruptcy. In sum, bankruptcy is an imperfect proxy for financial ruin.

Trends in medical bankruptcy. Although methodological inconsistencies between studies preclude precise quantification of time trends, medical bankruptcies are clearly increasing. In 1981 the best evidence available suggests that about 25,000 families filed for bankruptcy in the aftermath of a serious medical problem (8 percent of the 312,000 bankruptcy filings that year). Our findings suggest that the number of medical bankruptcies had increased twenty-threefold by 2001. Since the number of bankruptcy filings rose 11 percent in the eighteen months after the completion of our data collection, the absolute number of medical bankruptcies almost surely continues to increase.

Policy implications. Our data highlight four deficiencies in the financial safety net for American families confronting illness. First, even brief lapses in insurance coverage may be ruinous and should not be viewed as benign. While forty-five million Americans are uninsured at any point in time, many more experience spells without coverage. We found little evidence that such gaps were voluntary. Only a handful of medical debtors with a gap in coverage had chosen to forgo insurance because they had not perceived a need for it; the overwhelming majority had found coverage unaffordable or effectively unavailable. The privations suffered by many debtors—going without food, telephone service, electricity, and health care—lend credence to claims that coverage was unaffordable and belie the common perception that bankruptcy is an ''easy way out.''

Second, many health insurance policies prove to be too skimpy in the face of serious illness. We doubt that such underinsurance reflects families' preference for risk; few Americans have more than one or two health insurance options. Many insured families are bankrupted by medical expenses well below the ''catastrophic'' thresholds of high-deductible plans that are increasingly popular with employers. Indeed, even the most comprehensive plan available to us through Harvard University leaves faculty at risk for out-of-pocket expenses as large as those reported by our medical debtors.

Third, even good employment-based coverage sometimes fails to protect families, because illness may lead to job loss and the consequent loss of coverage. Lost jobs, of course, also leave families without health coverage when they are at their financially most vulnerable.

Finally, illness often leads to financial catastrophe through loss of income, as well as high medical bills. Hence, disability insurance and paid sick leave are also critical to financial survival of a serious illness.

Only broad reforms can address these problems. Even universal coverage could leave many Americans vulnerable to bankruptcy unless such coverage was much more comprehensive than many current policies. As in Canada and most of western Europe, health insurance should be divorced from employment to avoid coverage disruptions at the time of illness. Insurance policies should incorporate comprehensive stop-loss provisions, closing coverage loopholes that expose insured families to unaffordable out-of-pocket costs. Additionally, improved programs are needed to replace breadwinners' incomes when they are disabled or must care for a loved one. The low rate of medical bankruptcy in Canada suggests that better medical and social insurance could greatly ameliorate this problem in the United States.

In 1591 Pope Gregory XIV fell gravely ill. His doctors prescribed pulverized gold and gems. According to legend, the resulting depletion of the papal treasury is reflected in his unadorned plaster sarcophagus in St. Peter's Basilica. Four centuries later, solidly middle-class Americans still face impoverishment following a serious illness.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, unfortunately what the gentlewoman from California (Ms. ZOE LOFGREN) said is not correct. There is a means test that is contained in this bill, but 11 United States Code, section 1307 which permits the conversion of a chapter 13 case to a chapter 7 case is not amended at all in any respect.

I would just like to read 11 U.S.C. 1307(a): ''A debtor may convert a case under this chapter to a case under chapter 7 of this title at any time. Any waiver of the right to convert under this subsection is unenforceable.''

So if chapter 13 is such a straight jacket, the way out is through the conversion as provided for in section 1307.

Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. CHABOT).

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

Mr. Speaker, I rise in strong support for this long overdue legislation. I want to thank the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), for his leadership and his efforts in making this bill a reality. It represent years of work, compromise and what I believe to be necessary reforms.

Our bankruptcy laws have shifted away from what was their original purpose. In 1915 the Supreme Court wrote that our bankruptcy laws were intended to give honest debtors a chance to ''start afresh, free from obligations and responsibilities consequent upon business misfortunes.''

This view was later reaffirmed in the 1934 case, Local Loan Company v. Hunt, in which the court wrote that ''the purpose of the act has been again and again emphasized by the courts in that it gives to the honest but unfortunate debtor a new opportunity in life and a clear field for future effort, unhampered by the pressure and discouragement of preexisting debt.''

Over the last several decades, bankruptcy protections have expanded to cover basically anyone and everyone, not just those who truly need it. Statistics reveal that in 2004 approximately 1.5 million individuals sought bankruptcy protection. Increasingly, this protection is being sought for the consumer debt that has skyrocketed out of control as a result of the misuse of credit cards and other credit options. This expansive coverage comes at a price.

Personal bankruptcy filing cost businesses and our economy tens of billions of dollars every year. It is basically a $500 per family annual tax on each and every American family. H.R. 685 the Bankruptcy Abuse and Consumer Protection Act of 2005, the bill that is here before us today, strikes a balance. It requires those who have the means to repay debts to do so while protecting those who truly need the assistance provided by chapter 7, such as those with serious medical conditions, the men and women of our armed services who are on active duty, as well as those disabled veterans who served in years past.

Decisions to seek the protection of bankruptcy should be taken seriously. The consequences of filing are not just personal but impact our economy and society as a whole. As I mentioned, it is $600 per family that we are essentially taxed this year for everybody who is paying their debts from those who are not.

□ 1415

Personal filings cannot continue at the current rate. This bill represents a long overdue, much necessary first step; and I urge my colleagues to support this legislation.

Mr. CONYERS. Mr. Speaker, I yield 20 seconds to my friend, the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Speaker, what the gentleman suggested was, if someone has overwhelming medical bills, hundreds of thousands in medical bills, that they can file under Chapter 7. That is not true. If they have a job and they have $100 a month left over after essential expenses, they are going to have to go under a wage earner plan for the next 5 years. Every dime they have got after food and rent will go to all of their bills. They cannot file under Chapter 7.

Mr. CONYERS. Mr. Speaker, I yield to the gentleman from Ohio (Mr. KUCINICH) for a unanimous consent request.

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

Mr. KUCINICH. Mr. Speaker, almost half of the bankruptcies in the United States are connected to an illness in the family, whether people had health insurance or not. Middle-class Americans, who had the misfortune of either experiencing a medical emergency themselves or watching a family member suffer, were then forced to face the daunting task of pulling themselves out of debt. Bankruptcy law has allowed them to start over. It has given hope. Now this new law will put people on their own. Illness or emergency creates medical bills. We are telling the people that they themselves are to blame. At the same time, we are removing protections that would stay an eviction, that would keep a roof over the head of a working family. We allow the credit industry to trick consumers into using subprime cards, with exorbitant interest rate hikes and fees. Then we hand those same consumers over to an unforgiving prison of debt, to be put on a rack of insolvency and squeezed dry by the credit card industry. We are protecting the profits of the credit card industry instead of protecting the economic future of the American people. Americans are left on their own. That's what this Administration's "Ownership Society" is all about—you're on your own—and your ship is sinking.

Mr. CONYERS. Mr. Speaker, I am now pleased to break the line of members of the committee. I yield 1 minute and 15 seconds to a distinguished friend of mine, the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, you would not even exempt our brothers and sisters coming back from war, and you want me to believe that this is reasonable legislation?

Rising debt levels in turn reflect a shift in our economy away from a time when families could afford to save and into a time when their wages are stagnant. The costs of their health premiums increased 163 percent since 1988. Their tuitions have increased 170 percent. Their mortgages, their child care. This is not a stable economy.

They are not crooks. They are not evil people. The American Bankruptcy Institute says that 96.3 percent of the people filing Chapter 7 just do not have the money. Now we are not saying forget about all of this, but we are saying let us be reasonable.

Who should we help? Who should be first on the list of congressional priorities? The families who are in financial straits or the credit card companies who made a record $30 billion in profits last year and whose profits have soared almost triple in the last decade?

This legislation does nothing to put caps on interest rates or late fees or the overtime limits and other penalties, even those among reasonable people.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1½ minutes to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Speaker, I rise today in strong support of S. 256, the Bankruptcy Abuse and Consumer Prevention Act.

Mr. Speaker, we have seen a sharp increase in bankruptcies in the past 25 years. In 2003, consumer filings peaked at over 1.6 million filings, a 465 percent increase from 1980. Those who believe credit card companies, mortgage lenders and other financial institutions are bearing the cost of consumers filing for bankruptcy do not understand how business works. These costs will be shifted to American families who are paying the price for this debt, some studies reflect $400 per year in every household, by higher interest rates on their credit cards, auto loans, school loans and mortgages. When the legislation passes today it will be the American families who are the real winners.

This legislation balances the consumer's challenge of debt repayment with the needs of businesses that collect money rightfully owed to them. In an effort to better educate consumers and improve financial literacy, the legislation requires many filers of bankruptcy to attend financial counseling. This change coupled with congressional encouragement for schools to incorporate personal finance curricula in elementary and secondary education programs are both useful methods of curbing future debt. As chairman of the Subcommittee on Education Reform, which has jurisdiction over K through 12, I feel strongly that educating future spenders can prevent debts incurred as adults.

Again, Mr. Speaker, I want to thank Chairman SENSENBRENNER for his years of strong and tenacious support for this legislation and thank him for not giving up on these important, commonsense changes to our bankruptcy system. I urge my colleagues to support this bipartisan legislation.

Mr. CONYERS. Mr. Speaker, before I recognize the gentleman from Massachusetts, I want to go back and yield 10 seconds to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, I want to make sure that everybody quite understands that I will no longer support this legislation. I am changing my vote this year to a no vote. This is terrible legislation, and we have only made it worse.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 2 minutes to my friend, the gentleman from Massachusetts (Mr. MEEHAN), an excellent member of the committee.

Mr. MEEHAN. Mr. Speaker, this bankruptcy bill is but the latest attempt by the Republican Congress to undermine the economic security of the middle class. Health care costs, not spending sprees, are the single largest causes of bankruptcies in America. Health care costs. Medical bankruptcies have gone up by more than 2,000 percent in the last 25 years. Why are we here trying to increase the profits of credit card companies while doing nothing to lower the cost of health care for middle-class American families?

It is disgraceful that this bill is being considered under a closed rule, with just an hour of debate, with no opportunity for amendment.

Supporters of this bill claim to have exempted service members who become disabled on active duty, but to be exempted you have to go into debt while on active duty.

A veteran who returns home from Iraq or Afghanistan and then goes into debt because of the injuries sustained on active duty is still subject to the punitive means test. What a way to treat the men and women in uniform fighting on behalf of the United States. It is an unfair loophole that we should have had the opportunity to close here on the House floor.

Another blatant unfairness is that this bill allows millionaires to shield their assets in estates in Florida and Texas, but no such homestead exemption exists for middle-class families who suffer serious medical expenses. We tried to offer an amendment allowing a limited homestead exemption for families with crushing medical debts. Unfortunately, no amendments were allowed.

It is an outrage that we cannot debate these issues here on the House floor. This bill is simply an attempt to reward credit card companies by removing a last resort available to middle-class families who fall on hard times.

I urge Members to oppose this terrible bill.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself a minute and a half.

Mr. Speaker, once again the opponents of this legislation are not correct. My friend, the gentleman from Massachusetts, says that someone who

is injured in Iraq and comes home is not going to be protected from medical expenses. The United States Government has stood behind everybody who has a service-connected injury or disability and pays for the medical treatment out of taxpayers' money because that is the right thing to do.

Secondly, he says that this bill continues the millionaires' exemption in the eight States that have unlimited exemption. Wrong. It plugs that exemption.

And if this bill goes down, a corporate crook can build a multimillion dollar mansion on the Intercostal waterway in Florida and be able to shield that asset from bankruptcy. What this bill does is it does plug that unlimited exemption and it plugs it in a way that was negotiated out in a bipartisan manner in the conference committee two Congresses ago with a motion that was made in that conference committee by my senior Senator, HERB KOHL, who is a Democrat.

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

Mr. CONYERS. Mr. Speaker, I yield 10 seconds to the gentleman from Massachusetts (Mr. MEEHAN).

Mr. MEEHAN. Mr. Speaker, I did not say the bill did not pay for service members' medical expenses who are injured in Iraq or Afghanistan. I said if they incur debt after they come back from serving this country and are forced to bankruptcy, they get the punitive means test. That is wrong. We should not do it to people serving in Iraq and Afghanistan.

Mr. CONYERS. Mr. Speaker, how much time remains on either side?

The SPEAKER pro tempore (Mr. PUTNAM). The gentleman from Michigan (Mr. CONYERS) has 9 minutes and 20 seconds. The gentleman from Wisconsin (Mr. SENSENBRENNER) has 8 minutes remaining.

Mr. CONYERS. Mr. Speaker, I am now pleased to yield 2 minutes to the gentlewoman from California (Ms. LINDA T. SÁNCHEZ), who is an able member of the committee.

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I rise in strong opposition to the so-called Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

Contrary to its name, this bill does not protect consumers and it certainly does not help honest, hard-working families with financial problems. The only thing that this bill does is distort our bankruptcy laws so that working families are treated more like criminals than people in need of relief.

Our bankruptcy laws must strike a fair and practical balance between debtors and creditors. This means that honest people with financial troubles can make a fresh start by getting creditors off their backs.

But this bill does the exact opposite of that. Instead of helping struggling families in debt, this bill erects harsh legal and monetary roadblocks for people who are trying to file bankruptcy.

The vast majority of people who file for bankruptcy, 9 out of 10, do so because they have either lost their job, suffered a medical emergency, or there has been a divorce or separation in their family. These are not people who are abusing the bankruptcy system.

We are talking about recently divorced, single working mothers trying to support their children who may not be getting their child support. We are talking about young men and women in our Armed Forces returning home after serving their country in Iraq. We are talking about some of the 1.6 million families who have lost their private-sector jobs since 2001 when a Republican administration took over the White House. These are honest, hard-working families who have resorted to bankruptcy to find some relief for their debts and a chance to start their lives anew.

This is a terrible bill. It is harmful to struggling families and goes against the basic policy of our bankruptcy laws, helping families in financial trouble get a fresh start.

I urge every Member of the House to stand by America's working families by voting no for passage of S. 256.

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

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentlewoman from Los Angeles, California (Ms. WATERS), a member of the committee.

Ms. WATERS. Mr. Speaker, the passing of this bill would be a complete detriment to the American people. For many Americans find themselves, usually through no fault of their own, facing bankruptcy. This scenario could happen to almost anyone.

Mr. Speaker, the main reasons Americans file for bankruptcy is not to abuse the system and avoid paying their bills. Americans file for bankruptcy usually due to catastrophic medical expenses, divorce, or the loss of their jobs.

Many important, common-sense amendments on subjects such as alimony, child support, exemptions for medical emergencies, and job loss, underage credit card lending, predatory lending and protection for disabled veterans, just to name a few, were all rejected by the Judiciary Committee.

Mr. Speaker, amendments should have been made to this bill to carve out exemptions for certain basic needs so Americans can still have some equity or resources should they be forced into bankruptcy.

More specifically, one loophole in the bankruptcy bill leaves the victims of domestic violence and their children left with no resources should they file for bankruptcy. This is so unfair. The bill should have been allowed to be modified to secure better protection for domestic abuse victims by granting them relief from summary eviction from their houses.

Please note, this relief would have only been available if a domestic violence debtor is certified, under penalty of perjury, that the debtor was in fact a victim of domestic abuse and that their physical well-being or the physical well-being of the debtor's child would be threatened if this debtor were evicted.

Mr. Speaker, this amendment would have provided a safe harbor for those victims who faced the great threat of more violence and extreme danger if their homes are taken as a result of bankruptcy.

We also tried to do something about this underage credit card lending. It is a travesty. These credit card companies set up on the college campuses. They have vendors from the day these kids walk into college. They send them all of this unsolicited mail, and they telephone them unrelentlessly to get them involved in taking these credit cards.

They do it. They run up the debt. Some of them are now 30, 35 years old, out of college for years, still paying on these credit cards because they allowed their minimum payments that do not even take into account all of the interest on the debt.

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It is outright unreasonable that we did not have an amendment allowed by my friends on the opposite side of the aisle to try and protect families and future young families from this kind of exploitation.

Also, I want to point out that the means test includes disaster assistance and veterans benefits. This is a rip-off.

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

Mr. CONYERS. Mr. Speaker, I yield myself 5 seconds to let the gentlewoman from California know that the credit card companies solicit five billion mailings every year to college kids and others.

Mr. Speaker, may I ask the chairman how many speakers he may have remaining.

Mr. SENSENBRENNER. Mr. Speaker, if the gentleman will yield, just me at the present time.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the dynamic gentlewoman from California (Ms. WOOLSEY).

(Ms. WOOLSEY asked and was given permission to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, over the last 18 months the House leadership has passed bills that are windfalls for the pharmaceutical industry, big oil, and they have given massive tax breaks to corporations while the deficit in this country continues to grow by records.

Now lining up for their share and licking their lips is the credit card industry who stands to make billions of dollars at the expense of American consumers.

With the hope of helping to protect veterans from these regulations, I offered an amendment to this bill to simply waive any fee charged for credit counseling for any servicemember returning from a combat area for a period of 2 years. Do my colleagues think that was allowed to come down here on the House floor for a vote? Absolutely not.

Many of these men and women have been away from their families, from their homes, their jobs for long periods of time because of unethical procedures that keep them overseas. Many of these individuals have lost their businesses, they have lost their homes and they have bills and are going to suffer. Our veterans, they will suffer because of this bankruptcy bill.

Mr. Speaker, over the last eighteen months, the House leadership has passed bills that are windfalls to the pharmaceutical industry and big oil and, have given massive tax breaks to corporations, while the deficit continues to break records.

Now lining up for their share and licking their lips is the credit card industry, that stand to make billions of dollars at the expense of the American consumer.

With the hope of helping to protect Veterans from these new regulations, I offered an Amendment to this bill to simply waive any fee charged for credit counseling for any service member returning from a combat area, for a period of two years. Unfortunately, the majority didn't allow any.

Many of these men and women have been away from their families, homes and jobs for long periods of time because of unethical procedures that keep them overseas. This is resulting in severe economic hardships, business closures, homes foreclosures and bills unpaid.

We must not penalize our troops for serving our country. It is appalling that any Veteran would face bankruptcy because of their sacrifice.

Mr. Speaker, I urge my colleagues to vote against this bill to protect American families and maintain a core American value to allow people a fresh start.

Mr. CONYERS. Mr. Speaker, I yield myself 1 minute.

We should all be embarrassed that instead of repealing the biggest loophole in the bankruptcy code, we have had 8 years to study it, the homestead exemption, the bill places only weak obstacles in its path. Instead of protecting women and health care providers from those who would terrorize abortion clinics, we lay out a blueprint for them to avoid their debts. Instead of helping individuals who have lost their job or faced a health care emergency, we deny them the chance for a fresh start.

By passing this measure in this form, the majority is telling the American people, Republicans are telling the American people, it is more important to help credit card companies than innocent spouses and children; that it is more important to protect corporate scam artists than workers losing their pension; that it is more important to protect unscrupulous lenders than disabled veterans.

Mr. Speaker, I yield the remainder of my time to the gentlewoman from California (Ms. PELOSI), the distinguished minority leader.

(Ms. PELOSI asked and was given permission to revise and extend her remarks, and include extraneous material.)

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me time and thank him for his distinguished leadership as the ranking member on the Committee on the Judiciary and his important statements on this bankruptcy bill today.

Mr. Speaker, we all agree that every person in our country must be financially responsible, that we take responsibility for our action, for our debts and we do so in a way that is honorable.

In the course of our country's history, our economy, our government has always provided for people to get a fresh start under the bankruptcy law to enable them to go forward to make a contribution to our economy and our society. Recognizing that tradition and recognizing the appreciation that we have for personal responsibility, I regretfully rise in opposition to this bill because this bankruptcy bill seeks to squeeze even more money for credit card companies from the most hardpressed Americans.

It would bind hardworking and honest Americans to credit card companies and other lenders as modern day indentured servants. I think it is our duty to speak up for those who would be hurt by this bill.

This duty is paramount because we have been shut out of the process here, the legislative process to bring any amendments to the floor. That would have been an amendment on identity theft, which this week's news accounts demonstrate there are real problems of identity theft, and an amendment was rejected.

We tried to take a legislative course of action in our previous question, which is a technicality, is a procedure here on the floor; but we were not able to get any Republican support to address the issue of identity theft and how individuals can be protected from identity theft under the bankruptcy bill.

According to the sponsors of this bill, 1.6 million Americans who filed for bankruptcy last year are deadbeats who are avoiding their debts. That is really the essence of what they are saying with this bill. Proponents claim that there is a bankruptcy tax in which honest Americans are footing the bill for abusive users of credit cards.

We should be vigilant for any abuse of any legal process. There is no evidence, however, of widespread bankruptcy abuse. In fact, a recent study indicated that 45 percent of those filing for bankruptcy had skipped a needed doctor's visit, 25 percent had utilities shut off, 20 percent went without food. They are not using this money that they should be paying in for luxuries. They just simply do not have money to survive.

As a distinguished group of law professors wrote: ''Some people do abuse the bankruptcy system, but the overwhelming majority of people in bankruptcy are in financial distress as a result of job loss, medical expense, divorce, or a combination of those causes. This bill attempts to kill a mosquito with a shotgun.''

I have a problem with the bill on several counts as to what is contained in the bill. The bankruptcy bill fails miserably, I believe, on its merits. It employs, for the first time, a stringent and unworkable means test that limits access to chapter 7 and forces individuals into payment plans that will fail.

It frustrates a key goal of the bankruptcy code, to give individuals who suffer economic misfortunes through no fault of their own a fresh start. That is an American tradition.

The bill neglects the real causes of bankruptcies, as I just mentioned, medical concerns, divorce, in some cases death, while rewarding irresponsible corporate behavior.

It lets those who truly abuse and game the bankruptcy system, the wealthy debtors who shield their assets in asset trusts and homestead exemptions, keep their loopholes and get off, in some cases, scot-free.

It is wholly unnecessary. Current law already allows a bankruptcy judge to deny a discharge in chapter 7 to prevent abuses. That is why bankruptcy judges are uniformly opposed to the bill.

I just would like to quote Keith Lundin, a Federal bankruptcy judge in Tennessee and an authority on bankruptcy repayment plans. Judge Lundin says, ''The folks who brought you 'those who can pay, should pay' are pulling the stuffing out of the very part of the bankruptcy law where debtors do pay.'' He says, ''The advocates aren't trying to fix the bankruptcy law; they're trying to mess it up so much that nobody can use it.''

They interviewed dozens of bankruptcy judges, whose names have been suggested by proponents and opponents of this legislation, for their standing on this issue, to speak out; and the reasons why these judges are opposed are several reasons.

One is the judges now have broad discretion to determine how much a debtor must pay to creditors and on what schedule, and the schedule is very important, after declaring bankruptcy under what is known as chapter 13; but under the legislation, that discretion would be substantially curtailed.

The new legislation would bar courts from reducing the amount that many debtors would have to repay on their cars and other big-ticket items. It

would also extend the length of time people would have to make repayments and impose repayment schedules that critics describe as so onerous that debtors would fall behind. It just prescribes that they would.

The bankruptcy judges say the result would be the collapse of more repayment plans, forcing debtors out of bankruptcy court protection. Creditors could then force debtors to pay the full amount owed, not the reduced amount, and by moving to repossess their belongings. Many people would have to pay creditors far into the future and thus be unable to restart their economic lives, a long-held aim of bankruptcy.

I will submit this article from the Los Angeles Times for the RECORD at this point.

[From the Los Angeles Times, Mar. 29, 2005]

JUDGES SAY OVERHAUL WOULD WEAKEN BANKRUPTCY SYSTEM.

(By Peter G. Gosselin)

For nearly a decade, proponents of overhauling the nation's bankruptcy laws have described their aim as ensuring that Americans who enter bankruptcy court do not escape bills that they can truly afford to pay.

But only weeks before Congress is likely to approve the long-sought overhaul, bankruptcy judges across the country warn that the measure would undermine the very section of the law under which debtors are now repaying more than $3 billion annually to their creditors.

These judges say the effect of the overhaul would be to discourage most forms of personal bankruptcy, which—for nearly two centuries has served as a safety net for people in economic trouble.

''The folks who brought you 'those who can pay, should pay' are pulling the stuffing out of the very part of the bankruptcy law where debtors do pay,'' said Keith Lundin, a federal bankruptcy judge in the eastern district of Tennessee in Nashville and an authority on bankruptcy repayment plans.

''The advocates aren't trying to fix the bankruptcy law; they're trying to mess it up so much that nobody can use it,'' Lundin charged.

In interviews, a dozen current or former bankruptcy judges, whose names were suggested by proponents as well as opponents of the overhaul legislation, described what they saw as the problems that could result from key provisions of the new measure.

Judges now have broad discretion to determine how much a debtor must pay to creditors and on what schedule after declaring bankruptcy under what is known as Chapter 13. But under the legislation, that discretion would be substantially curtailed.

The new legislation would bar courts from reducing the amount that many debtors would have to repay on their cars and other big-ticket items. It would also extend the length of time people would have to make repayments and impose repayment schedules that critics describe as so onerous that many debtors would fall behind.

The result, the judges said, would be the collapse of more repayment plans, forcing debtors out of bankruptcy court protection. Creditors then could try to force debtors to pay the full amount owed—not the reduced amount a judge had ordered—by moving to repossess their belongings or bringing legal actions. Many people would have to pay creditors far into the future, the critics said, and thus be unable to restart their economic lives, a long-held aim of bankruptcy.

Repayment plans ''are pretty fragile documents to begin with, but they're going to get a lot more fragile under these conditions,'' said Ronald Barliant, a former bankruptcy judge from the northern district of Illinois in Chicago.

''It's going to take away a lot of the incentives'' for people to enter repayment plans, said David W. Houston III, a bankruptcy judge from the northern district of Mississippi in Aberdeen.

Overhaul proponents respond to such criticisms by contending that the current bankruptcy system is rife with fraud and abuse and is stacked against creditors. Many proponents are deeply scornful of bankruptcy judges, who they charge have let the system spin out of control.

''They're part of the . . . problem,'' declared Jeff Tassey, a Washington lobbyist who heads the coalition of credit card companies, banks and others that has spearheaded the overhaul drive.

''They're not real judges, not Article 3 judges,'' Tassey said. He was referring to Article 3 of the U.S. Constitution, under which judges in the regular federal court system are appointed for life. Bankruptcy judges are appointed under Article 1 to 14-year renewable terms.

As matters now stand, financially distressed Americans generally have two options in bankruptcy. They can file a Chapter 7 case, in which they forfeit most of their assets in return for cancellation of most debts and a debt-free ''fresh start.'' Or, they can file a Chapter 13 case, in which they get to keep most of their property but must agree to repay a portion of their debts over a period of time.

Some advocates for changing the system have contended that these provisions should be rewritten to address a kind of moral laxness in bankruptcy practices.

''When you have seen a system that has gone from a few hundred thousand cases to 1.5 million last year—most of that increase during the fat years of the Clinton administration—you must conclude something is not right,'' said Edith H. Jones, a federal appellate court judge in Houston who served on a blue-ribbon panel to review bankruptcy law in the 1990s and is widely believed to be seen as on President Bush's short list for a position on the Supreme Court.

''People have been encouraged to see bankruptcy as an easy way out of uncomfortable situations,'' Jones said.

Overhaul proponents have also said that the new measure is so narrowly cast that it would affect no more than 15 pecent of bankruptcy filers.

The legislation would require courts to check whether people make more than their state's median income and can pass a ''means test,'' which gauges whether they have enough to cover allowable living expenses, pay secured creditors such as mortgage lenders and still have some left over for unsecured creditors such as credit card companies. Those who are above the median and have the means would no longer be allowed to file under Chapter 7 and wipe out most of their debts, but would have to file Chapter 13 cases and agree to a repayment plan.

Nearly all congressional Republicans, together with many Democrats, support the overhaul measure, which the president has warmly endorsed and said he would sign. The Senate passed the measure this month in a 74–25 vote. Approval from the House is expected next month.

However, largely overlooked in the debate has been a series of proposed changes in Chapter 13 that critics say would make it harder for debtors to stick with repayment plans—the opposite effect of what supporters say they want.

Critics, including bankruptcy judges in California, North Carolina, Massachusetts, and Florida say there is nowhere near the fraud in the system that advocates claim.

They cite a study by the nonpartisan American Bankruptcy Institute, which concludes that only about 3 percent of those who wipe out their debts in Chapter 7 could afford to repay a portion in Chapter 13. Lobbyists for the credit card and banking industries estimate that 10 percent or more would be able to pay.

Those opposed to the changes contend that most people who file for bankruptcy are truly distressed finanacially—and say the success that courts have in collecting as much as they do under Chapter 13 shows the system is working.

According to figures from the U.S. Trustee Program, a Justice Department agency, Chapter 13 debtors repaid almost $3.6 billion in 2003, the latest year for which figures are available.

But critics say the courts' success with Chapter 13 is threatened by several little-noticed elements of the proposed legislation:

Under current law, those who file under Chapter 13 must repay car loans only up to the amount the car is worth at the time they enter court, or they risk losing the vehicle. A debtor who bought a $24,000 sport utility vehicle and filed for bankruptcy two years later, for example, might have to pay far less because the vehicle had depreciated.

By reducing what debtors owe auto lenders in this fashion, the law ensures more money for other creditors. And, according to bankruptcy experts, it means that auto lenders are treated on an equal footing with other ''secured'' creditors—they are promised repayment only to the value of the item they could repossess.

Under the new measure, debtors would have to pay the full amount on any vehicle purchased within 2½ years of bankruptcy, or risk losing the vehicle. The change may seem minor to an outsider, but not to Chapter 13 debtors or bankruptcy judges. ''That's going to be a big deal,'' predicted A. Thomas Small, a bankruptcy judge for the eastern district of North Carolina in Raleigh. It would mean that many repayment plans that work now would fail under the new measure, he said.

Under current law, the debtor and his lawyer work out a repayment plan that they think represents the most the debtor can pay and still cover basic living expenses. A bankruptcy judge must eventually approve the plan, which usually has reduced or stretched-out payments to creditors. In the meantime, the debtor immediately begins making payments to a court-appointed trustee.

Under the legislation, many debtors would have to make full payments on such big-ticket items as houses, furniture and appliances. They would have to make those payments directly to the lenders. And at the same time, they would have to start paying the court-appointed trustee for debts to doctors, credit card companies and other unsecured creditors.

Many bankruptcy judges say debtors who come before them often do not have enough income to make both sets of payments.

The result, they warned, would be that many debtors' plans would quickly fail.

Under current bankruptcy law, two guiding principles are that debtors should not be required to repay indefinitely, or they effectively become indentured servants to their creditors, and that they should eventually be given a debt-free ''fresh start'' on their economic lives.

The legislation would require debtors to agree to repayment plans with a five-year minimum repayment schedule, up from the current three-year minimum. It would also

boost the chances that debtors would be required to continue paying some debts even after a plan's successful completion.

Todd Zywicki, a law professor at George Mason University in Virginia, said the shift away from the ''fresh start'' philosophy is justified because another bedrock American value—that people who incur debts should pay them—is being sullied under the current system.

But many bankruptcy judges and independent experts warn that equally compelling values would be lost if the proposed measure becomes law.

Practically, they warn, debtors who would no longer qualify for Chapter 7 and fail to complete Chapter 13 repayment plans would either have to keep paying creditors indefinitely or drop out.

''If you're confronted with a mountain of debt and have no hope of getting out from under it, you're either going to go underground or turn to crime,'' said Kenneth N. Klee, a former Republican congressional staffer who was one of the chief authors of the last major bankruptcy law change in 1978 and now teaches law at UCLA.

More broadly, say judges and others, the ability to start over after running into financial problems should not be discounted.

''Loads of people have filed bankruptcy—Mark Twain, Buster Keaton, Walt Disney,'' said Lundin, the Nashville-based bankruptcy judge. ''Bankruptcy is a very American safety net.

''It's part and parcel of the American dream.''

Mr. Speaker, while this bill fails to improve the bankruptcy system, the bill succeeds in being harsh, punitive and mean-spirited.

The bill is particularly harsh on women who are often the primary care givers for their children or their parents and are the largest single group in bankruptcy; on older Americans who are the fastest growing group in bankruptcy due to medical costs; and on children. Parents seeking child support will compete with credit card companies and other lenders in State courts, but will have little protection and fewer resources than the large credit card companies they are up against.

Finally, the bill does a disservice to those who serve our Nation, especially our National Guard troops and Reservists who are not protected by an amendment passed by the other body.

National Guard and Reservists make up nearly 40 percent of those serving in the Iraqi theater. They often leave behind small businesses and jobs and incur debt, but they do not have the benefits and services offered to active duty Armed Forces.

This bill would not stop abusive creditors who are stalking down military families while their loved ones are serving our Nation bravely and heroically.

I would hope that our Republican colleagues would join us in a bipartisan way to support our motion to recommit that would give some opportunities for the National Guard not to be treated this way under the bankruptcy bill.

As for the bill, instead of addressing real causes of bankruptcy, this bill rewards irresponsible corporate behavior and fattens the already large profits of the credit card industry.

While bankruptcy filings have increased 17 percent in the last 8 years, credit card profits have increased more than 160 percent, from $11 billion to more than $30 billion. There are now 5 billion credit card solicitations a year stuffed into our mail boxes and many targeted at teenagers with no jobs, no income, no visible means of support to pay these credit card bills.

It is an industry with little oversight and loose underwriting that charges enormous fees and unfair interest payments. The legislation does nothing to address these failings. In fact, the other body rejected an amendment to tell customers how much it would cost in additional interest if they make only minimum payments on their credit card bills.

For these and other reasons, Mr. Speaker, I sadly oppose this bill. I say sadly because this is an area where there should not be any major disagreement. If the point is to honor a tradition in our country where people are entitled to a fresh start so they can begin contributing back to our economy and to our society, then we should uphold that; and if people are abusing the system, existing law already covers that.

Instead, we have a situation where it is mean and harsh to those who can least afford to pay back and gives opportunity to the wealthiest, the wealthiest, and corporate abusers of the system.

With that, Mr. Speaker, I am giving my reasons for why I oppose the bill.

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

Mr. Speaker, one does not need to get a good grade in Economics 101 to realize that those who pay their bills as agreed end up having to pay for the cost of debts that are ripped off in bankruptcy. The number of bankruptcy filings has exploded. The number of proven instances of people gaming the system and using bankruptcy as a financial planning tool has gone up, and this bill stops those types of abuses.

I would like to quote from page 4 of the committee report from testimony that was given by Professor Todd Zywicki, and he said, ''Like all other business expenses, when creditors are unable to collect debts because of bankruptcy, some of those losses are inevitably passed on to responsible Americans who live up to their financial obligations. Every phone bill, electric bill, mortgage, furniture purchase, medical bill and car loan contains an implicit bankruptcy tax that the rest of us pay to subsidize those who do not pay their bills. Exactly how much of these bankruptcy losses is passed on from lenders to consumer borrowers is unclear, but economics tell us that at least some of it is. We all pay for bankruptcy abuse in higher down payments, higher interest rates and higher costs for goods and services.''

The Credit Union National Association, which is a national organization of nonprofit credit unions that are owned by their members, said that, as of 2002, they lost over $3 billion from bankruptcies since Congress started its consideration of bankruptcy reform legislation in 1998; and CUNA estimates that over 40 percent of all credit union losses in 2004 will be bankruptcy related, and those losses will total approximately $900 million.

Now the credit unions are not the big issuers of credit cards. They are owned by their members, and those members have to pay additional costs of the services of their own credit unions because of the huge write-offs that have been described in this report.

Now if my friends on the other side of the aisle were so concerned about bankruptcy abuse and the fact that this bill does not deal with the problem, they could have spent the time drafting an amendment in the nature of a substitute. They were offered by the Committee on Rules and I requested the Committee on Rules to make such a substitute in order, but, no, all they want to do is criticize, attack and come up with no positive alternatives.

If that is their position, then the bankruptcy tax that everybody realizes is passed on to people who pay their bills as agreed to is on their shoulders, because we are trying to stop the abuse.

I have heard an awful lot about the homestead exemption. If this bill goes down, eight States and the District of Columbia will continue to have an unlimited homestead exemption where corporate crooks can hide their assets from bankruptcy in a homestead and, once they get their discharge, sell that mansion and go off on their merry way. They want to keep that. Our bill closes it.

We have heard an awful lot about asset protection trusts that become the law in a number of States. Page 506 of the bill contains a new section on fraudulent transfers and obligations that says that anybody who creates one of these trusts within 10 years of the date of filing can have that transfer voided if such a transfer was made to a self-settled trust or similar device, such transfer was made by the debtor, the debtor is the beneficiary of the trust or similar device, and the debtor made the transfer with actual intent to hinder, delay, or defraud any entity to which the debtor was or became, on or after the date such transfer was made, indebted. Our bill closes those asset protection trusts. If the other side votes this bill down, they continue on and the blame for that is on their shoulders.

We have heard an awful lot about medical bills. Well, the people who are complaining about medical bills put a tin ear on to the testimony that has been submitted in this extensive hearing record.

The United States trustees program, independent people who administer the

Bankruptcy Code, collected data and made findings on medical debt. They drew a random sample and, of 5,203 debtors, 54 percent listed no medical debt. Those that did, medical debt accounted for 5.5 percent of the total general unsecured debt; 90.1 percent reported medical debts of less than $5,000; 1 percent of the cases accounted for 36.5 percent of the medical debt; and less than 10 percent of all cases represented 80 percent of all reported medical debt. This is not the big problem that the people on the minority side have said it is. The data from the United States trustees proves this.

Finally, we have heard about debt that has been run up by service people who are on active duty, whether it is the permanent active duty military service or Guard and Reserve members who have been called up to active duty.

In the last Congress, the Congress enacted the Servicemembers Civil Relief Act, Public Law 108–189, which gives protection to people on active duty from collection of these debts by those that they have become indebted to, and this law puts a cap on interest at an annual rate of 6 percent on debts incurred prior to a person's entry into active military duty service.

Mr. Speaker, this is a good bill. It is not a perfect bill. It is a good bill, but it plugs a lot of loopholes that abuse has been generated under, and it does provide protection for medical debts and to our service people.

Let us not listen to the inaccurate statements that have been made by people who have been opposed to bankruptcy reform beginning 8 years ago, long before the military actions in Iraq and Afghanistan. Let us give some protection to the people who pay their bills that they have agreed to from the hidden bankruptcy tax, and the way we do that is by passing this legislation.

Ms. DELAURO. Mr. Speaker, to listen to this majority, we have a crisis in this country—one brought on by spendthrifts defrauding the public via our bankruptcy system. Indeed, to look at the statistics, we are facing a crisis—but it has nothing to do with ordinary Americans acting irresponsibly or even our bankruptcy system.

Last year, more than a million-and-a-half families resorted to declaring bankruptcy—a full half of which occurred not because of any irresponsible behavior but because of unexpected medical expenses brought on by an illness or death in the family. These families—widows and widowers, mothers and fathers, many in the middle-class—are hardly ''gaming the system''—they are doing the best they can under unbelievable circumstances that have left them with no choice but to resort to the only recourse they have: filing bankruptcy, wiping their debt and trying their best to start anew.

If there is any ''crisis,'' it is the skyrocketing cost of health care, which has left more than 14 million Americans spending more than a quarter of their every paycheck on medical costs—that Mr. Speaker, is what I call a crisis. A moral crisis.

We can all agree that individuals should be accountable for living beyond their means, but if anyone is ''gaming'' our bankruptcy system, it is the credit card companies, who have long been advocating for this bill at the same time they prey on unsuspecting customers. And as with previous incarnations of this legislation, there is virtually nothing in the bill that would require creditors to curb their outrageous predatory lending practices that mislead even the most educated consumers into debt.

This bill is especially bad for women, who are the single largest group currently in bankruptcy. By making it harder for them to file for bankruptcy, we will make it more difficult for them to maintain essential items such as the car that gets them to and from their job. Women who are owed child support will be forced to compete with credit card companies and other lenders for dollars to spend feeding and clothing their children. The bill also allows perpetrators of violence against women at health centers to escape liability for their actions through the bankruptcy courts.

Mr. Speaker, this bill is yet another product of an Administration and majority that taxes work and rewards wealth. It appeals to the worst in all of us, painting honest middle-class families who are working hard and taking personal responsibility for their actions as liars, cheaters and spendthrifts. At the same time it lets off the hook those who do act irresponsibly by preserving loopholes which allow wealthy bankruptcy filers to hide their true wealth in mansions and trust funds. I can hardly imagine a more unfair piece of legislation less concerned with promoting the common good, and I urge my colleagues to oppose it.

Ms. JACKSON-LEE of Texas. Mr. Speaker, as I stated with respect to the consideration of the rule, today is a sad day for America, its elderly, its veterans, its bereaved, and its aspirants for a second chance.

This 512-page legislation before the Committee of the Whole simply falls far short of its purported goal of ensuring that every debtor repay as much of her debt as she can reasonably afford. Instead, this bill appeals to special interest groups—mainly credit card companies. The bill's sponsor has said that bankruptcy has become a system ''where deadbeats can get out of paying their debt scott-free, while honest Americans who play by the rules have to foot the bill.'' Given the economic gap as evidenced by the predominance of African American and Hispanic bankruptcy filers, it is clear that these minorities are viewed as the ''deadbeats'' of society. Given the harmful provisions that are contained within the legislation, it is clear that the Republican Majority wishes to perpetuate this condition.

According to the Democratic Platform: ''The heart of the American promise has always been the middle class, the greatest engine of economic growth the world has ever known. When the middle class grows in size and security, our country gets stronger. And when more American families save and invest in their children's future, America grows stronger still . . . Today, the average American family is earning $1,500 less than in 2000. At the same time, health care costs are up by nearly one-half, college tuition has increased by more than one-third, gas and oil prices have gone through the roof, and housing costs have soared. Life literally costs more than ever before—and our families have less money to pay for it. Three million more Americans have fallen into poverty since 2000''.

The bankruptcy bill, as it stands, has the potential to crush the dreams and futures of the vast majority of Americans. It will shut the door to the one avenue that is available to those who are eventually overwhelmed by debt.

The proposed bankruptcy bill will lead to a new feudal system. Let me share a few facts with you. Do you know that currently, more that 1 of every 100 adults in America files bankruptcy each year? Families with children are twice as likely to file. Research shows that approximately 50 percent of all families are forced to file bankruptcy due to medical expenses; and other 40 percent of families file bankruptcy due to divorce, job loss or death in the family.

Hispanic homeowners are nearly three times more likely than White homeowners to file, and African American homeowners are nearly six times more likely than White homeowners. African Americans are also twice as likely to lose their homes due to foreclosures, often falling victim to the unscrupulous practices of predatory lenders. Furthermore, African Americans consistently have higher levels of debt. In a study of African American families, the typical family had debt of 30 percent of its assets, while the debt of the typical White family was 11 percent of its assets.

The process by which this bankruptcy bill has made its way to the Floor of the House frustrates both the notion of democracy and of representative government.

I offered amendments to the bill that included: (1) closing a new loophole that threatens to undermine the comprehensive scheme to compensate victims of nuclear accidents, which Congress enacted long ago in the Price-Anderson Act (PAA); (2) increasing the amount of tuition expenses allowed under the Chapter 7 means test; and (3) precluding the discharge of debt arising out of suits against sex offenses; (4) striking the means test; and (5) supporting an amendment by my colleague Mr. SCHIFF to offer relief to those who are victims of identity theft.

Chairman MEL WATT offered substantive amendments including one that would protect consumers from predatory lending tactics, and another that would seek to protect the credit of college students. Similarly, Representative BOBBY SCOTT offered amendments that included proposals to allow debt to be discharged when bankruptcy is caused by unforeseen medical expenses or by the death of a spouse.

However, the Republican Majority did not accept the amendments, and therefore ignored the issues advocated by my constituents and those of my seventeen Democratic colleagues.

The Republican leadership of the Judiciary Committee passed this measure without consideration of a single amendment that was offered by my Democratic colleagues and me. They effectively shut Democrats out of the markup process and thereby ignored the voices of the people's representatives on this very serious policy matter. When the bill was considered in the Senate, the Majority rejected over 25 Democratic amendments, including one that would have helped debtors to keep their homes if they have been driven into bankruptcy by medical expenses. Clearly, the Majority has priorities that do not protect Americans who are victims of circumstances that have nothing to do with creditworthiness.

Of the amendments that my Democratic colleagues and I plan to offer (for our upcoming consideration) before the House is one that would remove the Chapter 7 'means test'. This would sift out debtors who can afford to repay at least a portion of their debts from those who cannot. Debtors who have income above a ''state median'' would have to plead before a bankruptcy judge.

The egregious provisions of this bankruptcy bill and its name are not unlike many recent bills that have sifted through committee and onto the House Floor. Banks, credit card companies, and retailers have accounted for more than $24.8 million of campaign and partisan contributions since 1999. Commercial banks have given some $76.2 million, according to a study of campaign finance and lobbying disclosure reports and the Center for Responsive Politics. The banking industry has spent $22 million on federal lobbying in the past five years. In fact, according to the New York Times, ''The main lobbying forces for the bill—a coalition that included Visa, MasterCard, the American Bankers Association, MBNA America, Capital One, Citicorp, the Ford Motor Credit Company and the General Motors Acceptance Corporation—spent more than $40 million in political fund-raising efforts and many millions more on lobbying efforts since 1989.''

Clearly, the Republican Majority has shut Democrats out of the process in order to appease these special interest groups—to the detriment of middle-class and elderly Americans.

As an African American, I am troubled by the fact that both African American and Hispanic families, both of whom are over-represented in bankruptcy, would suffer disproportionately if this bill becomes law.

Proponents of this bankruptcy bill suggest that it will put pressure only on the families that have the ability to repay. In fact, the weight of the evidence demonstrates that this legislation will increase the cost of bankruptcy for every family, and decrease the protection of bankruptcy for every family, regardless of income or the cause of financial crisis. The bill contains provisions that will force many honest debtors unnecessarily out of Chapter 7, make Chapter 13 impossible for many of the debtors who file today, protect significant loopholes for wealthy and well-advised debtors, as well as raise the cost of the system for all parties. It will turn the government into a private collection agency for large creditors, and force women trying to collect child support or alimony to compete with credit card companies that will have more of their debts declared non-dischargeable.

The ability to file for bankruptcy relief and to receive a fresh start is a source of hope for a number of American families that suffer the burden of financial problems. What this Administration proposes with this bankruptcy reform bill is an attack upon minorities. It will make it virtually impossible for many families to extricate themselves from a web of high interest debt—and kill the dream of these families to become homeowners.

Mr. Speaker, I reject this legislation not only because it is flawed in and of itself but also because the process by which it is being considered is severely flawed. Americans deserve and have a right to a better process.

Mr. BLUMENAUER. Mr. Speaker, for as long as I've been in Congress I have supported bankruptcy reform on two simple principles; I believe people should pay their debts, if they are able, and that we should end abuses in the system, whether by people who deliberately run up their bills or by businesses who exploit the gullible and the unfortunate.

My first vote in favor of bankruptcy reform was cast with reservations because some of the provisions of the bill seemed unduly harsh, but I had hoped that the legislative process would ultimately improve the product. Unfortunately, for 8 years we have been unable to see the bill move through the legislative process and improve; it appears as though the bill, if anything, is actually less adequate due to increasing predatory lending by credit card companies and skyrocketing medical costs.

One of my deep concerns has been credit card mills, which send out millions of credit cards to people who are not creditworthy. In 2001 there were 5 billion solicitations by credit card companies. Meanwhile, skyrocketing fees have been coupled with reduced minimum payments. Bait-and-switch techniques have been employed that change the terms and raise the interest rates of cardholders who have never missed a payment.

While S. 256 contains overly harsh punishments for middle class Americans that have been preyed upon by the credit card industry, it preserves loopholes for the very rich. S. 256 maintains a homestead exemption that allows people with lots of money to shield their assets by purchasing multimillion dollar homes in certain states. O.J. Simpson was able to shield many of his assets by doing this in Florida. There are even sophisticated trust arrangements that enable people with substantial sums of money to be protected from the provisions of this bankruptcy bill.

There are some simple, common sense changes that could be made to this bill that would make it more fair to all parties involved. The Senate, however, was unwilling to compromise and approve any of these provisions and the House leadership has prevented any of these proposals from even being debated on the floor. Perhaps the most glaring example of the majority's unwillingness to compromise is the rejection of an amendment that would protect soldiers injured in Iraq and Afghanistan from the unfair ''means test'' within this bill.

I have had meetings over the years with individuals who represent all sides of this issue: the bankruptcy trustees, judges, and lawyers who represent the debtors, and the people who extend credit to businesses large and small and to individuals rich and poor. As a result of these meetings, it is clear that the loopholes do remain and that the abuses of lending practices are not being reigned in. The bill provides a mandate for unnecessary and burdensome paperwork and the most extreme requirements, including personal certification of the facts by the attorneys assisting the debtor that are not found anyplace else under any other legal provisions. This is going to shut down programs like the legal clinic at Lewis and Clark law school in Portland and will make it harder for legitimate creditors to be able to get their money back in a timely fashion.

The sad fact is that most bankruptcies are due to large medical bills, family breakup, and job loss. This legislation is going to put an unnecessary burden on the vast majority of unfortunate people and still allow too many of the unscrupulous to avoid their responsibilities. It does not have to be this way. I continue to hope that the political process will respond to these problems with sympathy and concern for the unfortunate. Until that point, I cannot support S. 256 in good conscience.

Mr. KIRK. Mr. Speaker, I am proud to vote in favor of S. 256, The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. This important bill brings needed reforms to our nation's bankruptcy system. The legislation reduces the unfair disparity of treatment in the bankruptcy system by establishing more uniform and predictable standards.

I am particularly pleased to note the compromise reached on healthcare and employee benefits. This legislation takes great strides to protect patients' rights, and it encourages debtors and trustees to consider patients' interests when administering healthcare bankruptcy cases. Patients are given a voice through the appointment of an ombudsman, who advocates for the confidentiality of patients' records and ensures patients are transferred to appropriate facilities. These are critical provisions that protect the rights of those with failing health.

I would like to commend a constituent from my district for his contributions to this legislation, Keith J. Shapiro, Esq., of Northbrook, Illinois, and his colleague Nancy A. Peterman, Esq. Mr. Shapiro testified in support of these patient health provisions before the U.S. Senate Committee on the Judiciary Subcommittee on Administrative Oversight and the Courts on June 1, 1998. The passing of this legislation marks the culmination of Mr. Shapiro and Ms. Peterman's tireless efforts to protect patients' interests in bankruptcy cases. On behalf of my colleagues in Congress, I offer my sincere gratitude for their dedication to fair bankruptcy policy.

Mr. HOLT. Mr. Speaker, thank you for allowing me the opportunity to offer my remarks today regarding S. 256, the so-called ''Bankruptcy Abuse Prevention and Consumer Protection Act.'' The issue of bankruptcy reform is extremely important and it is critical that we pass a measure that will both ensure greater personal responsibility of debtors, as well as ensure that credit card companies and other creditors take responsibility for their reckless lending. Unfortunately, this bill does neither. In fact, the bill before us today overly penalizes working families. In fact, the bill before us today takes no action against reckless and predatory lending. This bill will do nothing to reduce the number of bankruptcy filings or address the problem of record-high consumer debt, which now stands at $2 trillion.

As to the substance of the legislation, it is no secret that the number of bankruptcies has risen dramatically over the past few years. In 2001, 1,398,864 people filed for bankruptcy in the United States. According to the Center for American Progress, in 2003 there were a record number of 5.5 personal bankruptcy filings for every 1,000 people living in the United States. In 2003, my own state of New Jersey ranked slightly below the national average at 4.8 filings per every 1,000 residents. This past year, the number of personal bankruptcies had risen to 1,584,170, an increase of over 13 percent. In my own state of New Jersey, citizens have seen a similar increase in bankruptcy filing over the past three years. With those facts in mind, I strongly support the principle of increased personal responsibility of debt.

While there are many problems with S. 256, I'll name just a few of the more egregious provisions to which I strongly object. While the bill purports to elevate the priority of child support payments, in reality credit card companies would receive repayment of debt at the same rate as child support obligations. Children and families will now compete with credit card companies for payment. The bill's homestead-exemption cap does little to address the problem of wealthy debtors shielding their assets from creditors by purchasing million-dollar homes. Sophisticated, wealthy debtors can easily plan ahead and evade the cap. The provision in the bill dealing with ''asset protection trusts'' also does not adequately address the problem of wealthy individuals stashing millions away in trusts that are protected in bankruptcy proceedings. The bill puts the onus on creditors and the court to prove that the debtor was actively trying to avoid creditors by transferring money into the trust. The bill does nothing to protect people who have medical liabilities.

The bill also imposes artificial deadlines and cumbersome new paperwork requirements on small businesses trying to reorganize, and it unnecessarily limits the discretion of bankruptcy judges in crafting the best possible result for small-business debtors and creditors. The rigid and unrealistic requirements will force many viable small businesses to permanently close their doors.

Mr. Speaker, I recognize that there have been, and likely continue to be, abuses of the bankruptcy law, which was designed to be a safety net. As I've said before, I strongly support increased personal responsibility for debt accrued. However, this should coincide with greater responsibility on the part of the creditors. It is the creditors who often shamelessly target college students and low-income individuals with their credit card applications. It is the creditors who subsequently grant these individuals higher levels of credit at high interest rates. It is the creditors who saddle these individuals with insurmountable levels of debt. In fact, it is estimated that the credit card industry mails out five billion unsolicited credit card offers a year.

I believe we would be better served if we could fully debate the merits of this legislation, as well as substantive amendments that were disallowed from consideration by the full House. Sadly, once again, we cannot, and I urge my colleagues to oppose this legislation.

Mr. MORAN of Virginia. Mr. Speaker, the ''Bankruptcy Abuse Prevention and Consumer Act'' is long overdue and with House passage later today, it stands a very real prospect of becoming law. It's been an extremely long road to reform.

I originally supported bankruptcy reform in 1998 with former Representative George Gekas. Ironically, the legislation was drawn from the recommendations of the bipartisan National Bankruptcy Review Commission that was established through legislation passed in 1994 by a Democratic-controlled Congress. It enjoyed the same level of bipartisan support as when it passed the Senate last month.

The main component of the commission's recommendations and the legislation we have here today is to establish a means-based test to determine who should work with creditors on a plan to repay their debts and those who cannot afford to do so. Sometimes a market-based capitalist economy can be unforgiving, but Americans are fair and decent people. We want a system that allows a fresh start to those in financial trouble, but also one that promotes personal responsibility and is not susceptible to fraud and abuse.

The means test in this bill carves out a series of exemptions to steer those who can afford to repay at least part of their debt toward a Chapter 13 repayment plan. This test takes into account exemptions for living expenses, health and disability insurance, expenses to care for an elderly or disabled family member, secured debts, and home energy costs among others. It also recognizes situations where individuals face overwhelming medical costs or other debilitating situations. Under the bill, if an individual can demonstrate ''special circumstances'' that create an overwhelming financial burden, those individuals would not be required to file for Chapter 13. As a final safeguard, those people earning less than their state's median income would automatically be ineligible for Chapter 13.

It is estimated that only a small minority of those already filing for bankruptcy would be affected, perhaps as little as 7 percent. Contrary to some reports, families and individuals facing difficult economic circumstances, people who may have lost their job or family breadwinner or have been devastated by a severe medical condition, will be given a chance to clear their debts and receive a fresh start under this bankruptcy reform legislation.

Back in 1998, I encouraged supporters of the bill to improve its consumer protection provisions. They responded by making child support a priority in a repayment plan, requiring credit counseling prior to filing for bankruptcy, and limiting abuses caused by a few unscrupulous individuals who hide their wealth behind a state's homestead provisions.

At the onset of the 107th Session, I sought and won the House's approval of my pro-consumer amendments that remain a part of today' s bill. These provisions:

Require credit card companies to include a disclosure statement highlighting the number of months necessary to repay a balance if the card holder were to pay only the minimum amount due;

Require credit card companies to inform cardholders on when their low introductory rates expire and new higher rates take effect; and

Prevent deceptive and fraudulent advertising practices by debt relief agencies by making certain that creditors are informed of their rights as debtors.

Could these provisions be perfected? I suspect so. There were several other consumer protections we were unsuccessful in getting included. But perfection should not be an enemy of the good.

Increasingly, bankruptcy has become a tool of first impulse rather than a last option after all other avenues have been exhausted. Last year, 1.6 million consumers filed for bankruptcy, a figure just short of the number of filings in 2003, which represented the most in our nation's history. How is it that during periods of sustained economic growth and prosperity, such as during the Clinton presidency, when all incomes rose, bankruptcies also continued to climb?

S. 256 has been criticized for advancing the interests of the credit card industry on the backs of the poor and the middle class, many of whom are in debt because of circumstances beyond their control. I am sympathetic to this argument, but the flaw is not with this legislation. Those deserving of a fresh start will still be able to do so under this legislation.

The real flaw is with an agenda that the majority continues to advance.

Most families in dire financial straits and filing for bankruptcy will be able to discharge their debts under this legislation. But why are they facing bankruptcy?

One reason is that 41 million Americans are uninsured because the majority party refuses to address this growing crisis.

Another is because 7.3 million Americans live on the minimum wage, more than one-third of whom rely on the $5.15 cents per hour to support their family. They last saw a minimum wage increase in 1997.

It is because during the height of the last recession, the majority party refused to allow any extension of unemployment benefits, because they were too busy falling all over themselves to cut taxes for the wealthiest Americans.

We just passed this week a permanent elimination of the estate tax, helping the wealthiest among us avoid paying any tax on their untaxed earnings, and passed a budget resolution that will cut health care to the indigent.

Mr. Speaker, bankruptcy reform has merit and should become law. It is the majority's overall agenda that is bankrupt and in need of reform.

Mr. CUMMINGS. Mr. Speaker, after eight years of consideration, we are now poised to enact bankruptcy legislation that is deeply flawed. Like so many of the policy priorities pursued by this Congress and the Administration, this bill hurts the most vulnerable among our citizens.

Many of my colleagues have already discussed the terrible provisions that the legislation now before the House would implement. For example, this bill would institute a means test for eligibility to file Chapter 7 bankruptcy that two national commissions have concluded would be counter-productive, difficult to administer, and would yield little revenue to creditors. It would remove critical automatic stay provisions that currently prevent the eviction of those who are seeking to clear arrearages in their rent. S. 256 also would reduce the amount of personal property that those filing for bankruptcy can retain.

The Republican-crafted and credit-industry driven bankruptcy reform bill is inapposite the goals for which bankruptcy was conceived. Bankruptcy is intended to provide a 'fresh start' to those who file—not leave them sinking in financial quicksand.

However, rather than highlight the numerous other misguided provisions of S. 256, I want to look for a moment at the economic policies of which this legislation is just one more disappointing part.

The sponsors of S. 256 claim that the rising number of people filing bankruptcies in our nation is evidence that there is widespread abuse of our current bankruptcy protections. Actually, the rise in bankruptcy filings is a powerful and tragic reminder that our Administration's economic policies are not raising living standards but are instead contributing to the increases in bankruptcy filings. I note that bankruptcy filings actually decreased in 2004.

In the Economic Report of the President delivered to Congress in February of this year,

the Administration wrote that the ''President's policies are designed to foster rising living standards at home, while encouraging other nations to follow our lead.'' The President's policies are not worthy of emulation in other nations—and they are not worthy of continuation in our nation.

Job creation in our nation is failing to keep pace with the growth in the labor force. The Brookings Institution has noted that since the year 2000, there has been a 2 percent decrease in workforce participation among young people aged 25–34, which is unprecedented since World War II.

Slow job creation has also put little pressure on businesses to raise wages. As a result, wages for many low- and middle-income workers are now not keeping pace with consumer prices. Perhaps not surprisingly, the Congressional Research Service found that in 2001, 27 percent of families in the lowest one-fifth of household income distributions had debt obligations that exceeded 40 percent of their incomes.

While workers are not seeing increases in their purchasing power, they are also being left without health insurance to cover their medical expenses. A recent Harvard Study published earlier this year found that nearly half of all bankruptcy filings involve some major medical expense. As recently as 1981, medical expenses accounted for less than 10 percent of bankruptcy filings.

Forty-five million Americans are now uninsured—and countless millions more regularly experience lapses in coverage. More than 38 percent of those who filed bankruptcy for medical reasons were found to have experienced some type of lapse in their insurance coverage during the two years preceding their filing.

In fact, 90 percent of the bankruptcies filed are by those who have been injured, are sick, have been laid off, and/or are going through a divorce. Laid-off workers are the fastest growing group of people filing bankruptcy.

All the while, credit card company abuses are mounting in the form of deceptive marketing practices, irresponsible accounting practices and other predatory practices. Negative amortization by credit card companies require minimum payments so low as to allow debt to increase rather than be reduced. These practices are designed to give the debtor a false sense of financial health while incurring more debt. The result is often inevitable. The minute a tragedy strikes and a debtor falls behind in one payment, debtors are often swarmed upon by all of their credit card companies—who want to collect immediately. This is an unfair result for these debtors and a boon for creditors.

And now, Congress is poised to add insult to uninsured injury by destroying the basic protections that our bankruptcy laws have offered to those most in need.

Mr. Speaker, the increase in personal bankruptcy filings in our nation is not proof that our bankruptcy laws need reform. It is, instead, proof that our economic policies need reform—and need reform urgently.

This bill only serves to disadvantage those honest Americans struggling to make ends meet. I urge my colleagues to oppose S. 256.

Ms. SOLIS. Mr. Speaker, I rise in strong opposition to S. 256, legislation that will make it harder for individuals to eliminate their debts after liquidating most of their assets by filing bankruptcy. Thousands of women and their children are affected by the bankruptcy system each year. This bill will only inflict additional hardship on over a million economically vulnerable women and their families. In fact, women are the fastest growing group to file for bankruptcy. More than 1 million women will find themselves in bankruptcy court this year, outnumbering men by about 150,000. Women who lose a job, have a medical emergency, or go through divorce make up more than 90 percent of the women who file for bankruptcy.

This legislation's means test provision would require even the poorest filers—struggling single mothers, elderly women who are victims of scam artists—to meet complicated filing requirements to access the bankruptcy system. In addition, the bill would make it much harder for women to collect child support payments from men who file for bankruptcy because the bill gives credit card companies, finance companies, auto lenders and other commercial creditors rights to a greater share of the debtor's income during and after bankruptcy. This bill pulls the rug out from under economically vulnerable women and children. It increases the rights of creditors while making it harder for single parents and others facing financial crises.

This harsh bankruptcy reform legislation will not help those families that are struggling to get by. This bill will do nothing to reduce the number of bankruptcy filings or address the problem of record-high consumer debt. It is a gift to the credit card and banking industries; but one that will be paid for by those least able to afford it. Instead of giving a handout to credit card companies, we should ensure that Americans losing their jobs or struggling with medical debt have a second chance for economic security. That is what our bankruptcy laws are intended to provide. This bill is terrible for consumers, working families and women, and I urge my colleagues to vote against it.

Mr. CARDIN. Mr. Speaker, I support equitable reform of our nation's bankruptcy laws.

I recognize that there has been abuse of our bankruptcy system, and that reform is needed. I think we can all agree that those who can afford to should pay their creditors back—that they should be responsible for their debt. Those debtors who charge thousands of dollars on luxury items prior to declaring bankruptcy, should be held accountable. It is contrary to our values as Americans—this idea that some people are able to abandon their debts by gaming the system. Their actions are not fair to the vast majority of Americans who work hard to pay their debts in full, and Congress should act to limit irresponsible use of our bankruptcy system.

I have in the past supported reasonable bankruptcy legislation, and although this bill does contain some good provisions, I regret that I cannot vote for the bill before the House today.

S. 256 would make it more difficult for individuals and families who have suffered bona fide financial misfortune to get a fresh start. It does so by establishing a rigid means test to determine if an individual is eligible for Chapter 7 relief. Regardless of the circumstances that led the individual to seek bankruptcy, the court is not permitted to waive the means test. In other words, ''one strike, you're out.''

I am disappointed that we did not add some reasonable flexibility measures to the ''means test.'' The stated purpose of the bill's means test is to prevent consumers who can afford to repay some of their debts from abusing the system by filing for chapter 7 bankruptcy. It makes sense to require those who are able to repay their debts to do so. However, there are some situations that warrant an exception to the means test.

What are the reasons that individuals seek what we call ''bankruptcy protection?''

Harvard Law School recently researched bankruptcies and found that nine out of ten persons filing bankruptcy have faced job loss, severe health problems, divorce or separation. Illness or medical bills drove nearly half of these filings.

Unfortunately, the bill before us does not offer any relief in these or other tragic circumstances. I voted against the rule because it provides the House no opportunity to vote on amendments that would allow a court to consider extreme circumstances that might have led to bankruptcy filings.

I am disappointed that here in the House, the Judiciary Committee failed to close a popular loophole used by the very wealthy to shield millions of dollars by setting up asset protection trusts. If the majority were truly interested in creating a more fair bankruptcy system for all Americans, this would have been included in the bill.

The Judiciary Committee also failed to rein in some of the practices of credit card companies that are in part responsible for the rise in bankruptcy filings. They refused to provide credit card users with more detailed information to assist them in handling debt. Why not help consumers understand the consequences of their financial decisions, such as making only the minimum payment each month, so that they can avoid some of the missteps that can lead to higher debt?

We do need bankruptcy reform, and I wish that we had an opportunity to address many of these valid concerns.

I want to address the concerns of elderly Americans. The number of senior citizens in bankruptcy tripled from 1992 to 2001, representing the largest increase of any group of Americans. According to the Baltimore City Department of Aging, bankruptcies among elderly city residents have increased by nearly 50 percent over the past year.

Their costs of living are increasing steadily, including their rent, food, and heating costs. Many of them routinely use credit cards to cover their daily expenses. They are not spending frivolously—they are just getting by.

During previous Congresses when this bill was considered, employers were less likely to file for bankruptcy to shed health care and pension obligations to their retirees. More than one million Americans have had their pension plans taken over by the Pension Benefit Guarantee Corporation. From 2003 to 2004 alone, 192 plans were taken over by the PBGC. These retirees have seen their benefits reduced and so they must pay more for health care. But they have not had their debts reduced accordingly. An amendment in the other body that would have required companies that dropped retiree health benefits to reimburse each affected retiree for 18 months of COBRA coverage upon reemerging from bankruptcy was defeated.

Many seniors who do not yet qualify for Medicare or who have prohibitively high copays also pay medical bills and prescription

drug costs with credit cards. Often they skip dosages or forgo care entirely because they cannot afford it. We know the result, which is that many end up with much more severe conditions and many wind up in nursing homes. That translates into greater burdens on our federal and state budgets, and higher costs for us all.

I am disappointed that the victims of identity theft cannot seek relief under this bill. We have just learned that between ChoicePoint and Lexis-Nexis, thousands of individuals have been the victims of identity theft. In the last few years, the Ways and Means Committee has held fifteen hearings on a bill to reduce Social Security Number theft, and last year, we reported out a responsible bipartisan bill, but it was not brought to the floor. This year, I am again an original cosponsor of this bill, but it is not yet law, and so virtually every American remains at great risk for identity theft. Unfortunately, our vote on the previous question—to allow bankruptcy judges to take into consideration the fact that persons are forced into bankruptcy because of identity theft—was defeated.

Mr. Speaker, I want to vote for an equitable bankruptcy reform bill. So many Americans have been driven into bankruptcy not from a desire to game the system, but because of circumstances beyond their control. This legislation fails to adequately protect their legitimate needs. It is because of them that I must vote against this bill.

Mr. CANTOR. Mr. Speaker, we have before us today a bill that provides a safety net for people who have lost a job, had health problems, or served in the military and cannot repay their debts. It gives them the opportunity for a fresh start while continuing to hold accountable those who are able to repay their debts.

Bankruptcy abuse represents a ''hidden tax'' on the American people. When businesses have to raise the cost of their products due to unpaid liabilities, that cost is passed unfairly to all of us.

When people file for bankruptcy and cancel out their debts, small businesses suffer major financial setbacks. Bankruptcy to a small business triggers a change in its bottom line. A smaller bottom line means less money to pay employees, which leads to job cuts—something nobody would like to talk about, and certainly nobody would like to encourage.

This legislation will modernize the system and make it more difficult to hide behind the protections of filing for bankruptcy. With this bill we will lessen the impact of the unpaid debt that is a hindrance to thousands of businesses and hurts our ability to create jobs.

Mr. SHAYS. Mr. Chairman, I rise in support of S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act. It is a basic principle of commerce in our country that when a person makes an obligation to pay someone for a good or service, they do so. We ought to address the fact that our nation had over 1.6 million bankruptcy filings last year, and an estimated $44 billion in debts are discharged annually. When creditors are unable to collect money owed to them, we all pay the cost in the form of higher costs, higher interest rates and higher downpayments.

I want to be very clear that this legislation will not prevent those who have incurred oppressive indebtedness from filing. It will apply a means test that weighs whether a debtor has enough disposable income to repay creditors. If, after applying this test, the debtor has little or no disposable income, they will be able to file for straight bankruptcy just as they always have. Those who earn wages and have the ability to repay, however, will be required to file for Chapter 13 bankruptcy, restructure their debt and repay a portion of it.

I have heard from a number of my constituents concerned about high credit card rates, predatory loan practices and identity theft. I share their concern and believe that after passing this legislation today, we must redouble our efforts to pass legislation curbing predatory lending, and we must build on the legislation we passed during the last Congress regarding identity theft.

This is comprehensive legislation and while supporting its passage, this body should pledge strong oversight and the willingness to review its effect on bankruptcy filers and the economy at large.

Mr. HONDA. Mr. Speaker, today, the Republican majority continues its assault on hardworking Americans by ramming through the House of Representatives bankruptcy legislation that harms even the most ethical among us. The legislation before us today is an indefensible gift to the credit card industry, and I urge my colleagues to join me in voting against it.

S. 256, The Bankruptcy Abuse Prevention and Consumer Protection Act, purports to introduce a greater level of personal responsibility into the bankruptcy system by eliminating various loopholes and incentives that encourage consumer bankruptcy filings and abuse. The bill's proponents argue that this kind of abuse is rampant, but expert analyses suggest another story. According to a Harvard study, about 50 percent of all families that file for bankruptcy are forced to do so as a result of medical expenses, and three-quarters of those individuals actually have health insurance. Another 40 percent have been driven into bankruptcy, at least in part, after suffering a job loss, divorce, or death in the family. The American Bankruptcy Institute estimates that no more than three percent of filers avoid repayment of debts by gaming the system. The simple truth is that almost all individuals declaring bankruptcy do so as necessity and a last resort!

Sadly, the mechanisms employed by this bill to crack down on bankruptcy abuse will have a disproportionate impact on women, minority communities, the elderly and the unemployed. It will impose a rigid means test that will make it more difficult for debtors to get a ''fresh start.'' The bill also will endanger child support payments, permit landlords to evict tenants, and frustrate efforts by debtors to save homes and cars. It betrays veterans who accumulate debt following an injury or disability sustained on active duty. In a final insult, the Republican leadership denied the opportunity for Democrats to offer amendments that would have protected veterans and other vulnerable communities.

While the Republican majority wishes to hold the average American accountable, it seeks to preserve privileges and loopholes for the financial industry and the rich. The bill does nothing to reign in credit card companies that engage in reckless lending, and it allows wealthy debtors in five states to declare bankruptcy and keep their multimillion-dollar homes without penalty. Once again, the Republican leadership thwarted amendments that would have evened the playing field for debtors and creditors. Amendments to close loopholes for millionaires, discourage predatory lending, and cap interest on extension of credit were flatly rejected by the Republican majority on the Rules Committee.

Reasonable bankruptcy reform may be necessary, but S. 256 is an abuse of the legislative process and a threat to the financial security of all Americans. I urge my colleagues to oppose S. 256.

Mr. ALLEN. Mr. Speaker, I rise in opposition to S. 256. This bill helps big credit card companies at the expense of working families in crisis.

A Harvard University study reports that more than forty-five percent of all bankruptcies are filed because of a health emergency. Approximately ninety percent of all bankruptcies are due to a health care debt, job loss, or a divorce. When this personal crisis happens, families are driven into crushing credit card debt that they ultimately cannot manage.

Working families are being squeezed by skyrocketing health care costs, gas prices, and housing costs. At the same time, this Republican Congress is reducing the social safety net for working families: Medicaid, Social Security, and now, bankruptcy protections.

Mr. Speaker, I know there are people abusing the bankruptcy code. But There are also companies marketing loans to people who cannot afford them. Credit unions and community banks make responsible loans and do responsible underwriting. But this bill does nothing to make big credit card companies curb their abusive marketing strategies or practice responsible underwriting.

Vote ''no'' on S. 256.

Mr. UDALL of Colorado. Mr. Speaker, I do not support this bill in its present form—and, since the Republican leadership has made it impossible for the House to even consider any amendment, I have no choice but to vote against it.

In recent years, Colorado has been one of the states with the greatest increase in bankruptcy filings. Opinions vary about the causes, but this fact does suggest a need to consider whether the current bankruptcy laws should be revised. So, I am not opposed to any change in the current bankruptcy laws, and in fact I think some of the bill's provisions would make reasonable adjustments in those laws.

But this legislation was first developed years ago and neither its supporters nor the leadership have been willing to give any real consideration to adjusting it to better reflect current conditions.

In particular, I think that the bill should have been amended to more appropriately address the financial problems being encountered by some members of the regular Armed Services as well as by members of the National Guard who have been called to active duty in Iraq or elsewhere.

If the motion to recommit had prevailed, the bill would have been amended to exempt from the means test at least those National Guard and Reservists whose debt resulted from active duty service or was incurred 2 years of returning home from their service. Unfortunately, the motion was not adopted.

For me, this is a very serious matter and the lack of such an amendment is one of the main reasons I cannot support the bill.

Under these circumstances, I am not persuaded that the bill now before us is the right

prescription for Colorado or our country. I think it still needs work—and because of both its shortcomings and the refusal of the leadership to permit consideration of any changes, I cannot support it.

Mr. KIND. Mr. Speaker, I rise today in support of this legislation because the current system needs reform to protect those people truly in need of debt relief, while holding accountable those who can repay their debt.

Bankruptcy filings have risen steadily in recent years, an indication that our current system is an ineffective one that discourages consumers from saving and planning responsibly and ultimately isn't good for consumers, families, or a society that values individual responsibility. I believe bankruptcy should be a last resort—one that allows people who need protection to receive it and people who can repay all or some of their debts to do so. The system in place now gives incentives to people in trouble and encourages them to steamroll headfirst into Chapter 7 liquidation of all their debts, even when they could get back on their feet through a reasonable repayment plan or basic credit counseling.

While S. 256 is not a perfect bill, I do believe it goes great lengths in addressing the growing problem of bankruptcy in this country. I believe there is great misunderstanding about what this bill does and who will be affected. Only those earning above the median income and who have the ability to pay will be required to pay back their debt. However, millionaires who use bankruptcy law as a method of financial planning will no longer be able to buy extravagantly and subsequently have all of their debt written off.

It is also important to note that many families and small businesses will benefit because of changes to this law. Bankruptcy costs are passed on to other consumers, and the average family pays hundreds of dollars each year in higher prices. Additionally, small businesses that might otherwise not be paid for their goods or services will have a better chance of gaining compensation as a result of this bill. A very positive aspect of S. 256 is that it makes permanent Chapter 12 of the bankruptcy code. I, along with other members of Congress, have been working for years to make permanent this much-needed source of relief for our family farmers.

There have been accusations that this bill will be detrimental to the most needy; in fact, there are a great deal of safeguards. S. 256 includes protections ensuring that alimony and child support payments are made. I believe single parents and dependent children need our help far more than millionaires who benefit from current bankruptcy laws. Additionally, families who have exorbitant medical bills they cannot afford can still file for Chapter 7, and judges will still have a great deal of discretion when it comes to the issue of means-testing.

In addition, this legislation will create new disclosure requirements for lending institutions to provide better information to consumers about credit cards and debt. This is particularly important for young adults who are bombarded by credit applications and have limited knowledge about the risks that accompany credit card ownership.

It is important to note that this legislation is only the first step in addressing the bigger problems underlying savings in this country. With an over-reliance on credit cards and a lack of saving for retirement, too many Americans find themselves on shaky financial ground. Addressing this problem must be our next goal, and we must encourage more personal responsibility in consumers.

The Bankruptcy Abuse Prevention and Consumer Protection Act will benefit consumers and provide all Americans with better access to credit. It helps prevent abuse of the system while providing debt protection to those who truly need it. I urge my colleagues to support this legislation.

Ms. KILPATRICK of Michigan. Mr. Speaker, I rise in opposition to S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Action. The title of this bill is a misnomer. It should be titled the ''Corporate Protection and Improved Profitability Act''. If passed, this Act will be a boon for credit card and financial lending institutions and a nightmare for American families who are struggling to stay strong in an economically depressed society. Essentially, the House is contemplating legislation that is more punitive to individuals seeking bankruptcy protection than corporations that resort to filing for bankruptcy.

I also have concerns about House procedures for S. 256. A closed rule was employed, resulting in thirty-five Democratic amendments being rejected from consideration. Debate on an amendment to the bill was prevented. Thirty-five amendments were submitted before the Rules Committee and not one was accepted. Not only were members of the House prevented from engaging in debate but also the American people have been denied the opportunity to hear legitimate debate regarding this Act we are considering today. I am especially distressed about the majority's refusal to accept amendments that related to identify theft and exemptions for disabled veterans whose indebtedness occurs after active duty.

My review of S. 256 compels me to conclude that the framers of the bill failed or refused to recognize that recent economic policies by the current administration have directly contributed to the proliferation of bankruptcy filings by consumers. Burgeoning deficits, perpetual and high unemployment, and the exportation of jobs overseas are just a few of the by-products of failed and poorly conceived government policies that have contributed and continue to contribute to the need for individuals to seek bankruptcy protection.

I also oppose S. 256 because it does absolutely nothing to stem the predatory practices employed by credit card companies, or the abusive fees and penalties imposed on individuals who make just one late payment. Further, the wealthiest citizens in our country are able to insulate their assets by placing them in trusts that are protected in bankruptcy proceedings.

I staunchly oppose S. 256. Democrats were denied the opportunity to offer amendments, the American people have been denied a full opportunity to determine the full implications of the changes in bankruptcy law, and the Act is fundamentally anticonsumer.

Mr. Speaker, my conscience dictates that I oppose S. 256. I encourage my House colleague to vote No on the Bankruptcy Abuse Prevention and Consumer Protection Act.

Mrs. DAVIS California. Mr. Speaker, I rise to voice my opposition to the bankruptcy reform legislation before us today.

Unfortunately, there are individuals who abuse the credit system and use it for their own gain.

This is wrong and we should be working to stop those who take advantage of the bankruptcy laws.

However, I worry S. 256 will hurt the thousands of Americans who have absolutely no choice but to file bankruptcy as a last resort.

Specifically, I am concerned about the impact on our brave service members and our military families.

The numerous activations and extended tours of duty in Iraq and Afghanistan are causing our military families to face debt and serious financial strain.

Studies show that the incomes of military, families decrease significantly when the service member is deployed.

Four out of 10 Reservists, for example, take a drop in pay once they are deployed overseas.

I have met with military families in San Diego who are facing the realities and the financial strain that come with activation.

I worry about the military spouse whose husband is activated to serve in Iraq for a year and must leave his job or his business.

Somehow, we expect the spouse to care her children, to make the house payment, and to pay the bills on an income that is significantly lower.

Some military families will have no choice but to file for bankruptcy because of the environment we have created for them.

The bankruptcy reform bill before us today does not address the needs of our military families and the realities they are facing.

S. 256 will make it harder for military families to recover from a bankruptcy because of the additional costs and the stricter requirements.

The Senate did include provisions exempting military personnel serving in combat from certain provisions of the bill.

But, unfortunately, the financial impact of an extended deployment could remain long after the service member returns home to his family.

S. 256 does not recognize this reality and does not consider the difficult circumstances facing military families today.

I am against passing legislation only adding to the enormous burden we are already placing on those defending the United States and the families sending a loved one into harm's way.

I urge my colleagues to vote against the Bankruptcy Abuse Prevention and Consumer Protection Act.

Mr. UDALL of New Mexico. Mr. Speaker, thank you for allowing me the opportunity to offer my remarks today regarding S. 256, the so-called ''Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.'' The issue of bankruptcy reform is extremely important and it is critical that we pass a measure that will ensure greater personal responsibility of debtors, as well as ensure that credit card companies and other creditors take responsibility for their irresponsible lending. Unfortunately, this bill does neither. In fact, this bill overly penalizes working families and takes no action against reckless and predatory lending.

Mr. Speaker, in addition to my reservations about the legislation, I also strongly object to the rule under which S. 256 is being debated. The majority has, once again, passed a rule that stifles debate and blocks serious and substantive amendments. There were more than 30 thoughtful amendments brought before the

Rules Committee, yet they did not allow a single one to be brought before the full House. These amendments would have addressed the impact that this bill would have on groups such as disabled veterans returning from Iraq, single parents, families experiencing a catastrophic medical event, and people who are victims of identity theft. This continued smothering of the democratic process by the majority is shameful and must stop.

As to the substance of the legislation, it is no secret that the number of bankruptcies has risen considerably in the past twenty years. In 1980, there were 330,000 bankruptcies in the United States. In 2003, that number rose to over 1.66 million. The number of filings has dropped 3.8 percent in 2004 down to 1.59 million. Though this is headed in the right direction, I understand that more has to be done. S. 256, however, is not the answer.

S. 256 is full of provisions that I adamantly oppose. It imposes a rigid means test, endangers child support, and allows millionaires to continue to shelter their assets in mansions. These provisions result in an unbalanced and punitive measure that will have a devastating effect on women, the unemployed, and the elderly. Reform in this bill is skewed toward restricting the consumer's access to relief from overwhelming debt, while making it easier on those creditors who encourage additional unwise borrowing.

S. 256 fails to find a middle ground between lenders and borrowers. While it is critical that individuals begin taking greater responsibility for their debt, so too must the credit card industry take greater responsibility for shamelessly targeting individuals with their credit card applications. It is these creditors who subsequently grant these individuals higher levels of credit at high interest rates. It is the creditors who saddle these individuals with insurmountable levels of debt. S. 256 does nothing to help break this vicious cycle.

I would like to reiterate that I strongly support the principle of increased personal responsibility for debt, but I believe this bill does more harm than good. I believe we would be better served if we could fully debate the merits of this legislation, as well as substantive amendments that were disallowed from consideration by the full House. Unfortunately, once again, we cannot, and I urge my colleagues to oppose this legislation.

Mr. SMITH of Texas. Mr. Speaker, it's time for Congress to enact meaningful bankruptcy reform. Unless we take action, people will continue to abuse the system by filing for bankruptcy as an easy out. When people avoid their debts, someone still has to pay. Companies absorb the cost of unpaid debts by passing along these costs to consumers.

Over a million people file for bankruptcy each year. Many of these filings are legitimate attempts by debtors to pay their debts and obtain a fresh start. However, bankruptcy is too often used as a way to avoid responsibilities.

Unnecessary bankruptcy filings continue to increase at dramatic rates. Often, individuals go on spending sprees for luxury goods and services just before filing for bankruptcy, knowing that they can wipe the slate clean and avoid paying for what they bought.

This is bad for consumers and bad for our economy. When individuals avoid their debts when they could be paid off, the costs are passed on to America's businesses and consumers. We must ensure that debtors actually belong in bankruptcy and are not using the system to avoid their obligations.

This bill stops abuse by eliminating incentives in the current bankruptcy system that actually encourage consumer bankruptcy filings and abuse. It requires those who can repay their debts to do so. It also gives courts greater power to dismiss frivolous or abusive bankruptcy filings and punish lawyers who encourage these filings.

This bill also contains provisions I support to address those who abuse state homestead laws and attempt to shelter their wealth in multi-million dollar mansions. It requires a debtor to own their homestead for at least 40 months before he or she can use state exemption law. And, if a debtor has committed an intentional tort, a criminal act, or violated securities laws, their homestead exemption will be capped at $125,000. These provisions will close the loophole that currently allows debtors to abuse the homestead provision.

This legislation will encourage personal responsibility, protect consumers, and ensure that bankruptcy is used only as a last resort and is not abused by those who can afford to repay their debts.

Mr. WELDON of Florida. Mr. Speaker, for years, honest but unfortunate consumers have had the ability to plead their case to come under bankruptcy protection and have their reasonable and valid debts discharged. The way the system is supposed to work, the bankruptcy court evaluates various factors including income, assets and debt to determine what debts can be paid and how consumers can get back on their feet. The bill before us preserves that right for those individuals who simply get in over their heads and have no other way out

Unfortunately, some dishonest individuals have taken advantage of our bankruptcy laws by hiding assets, racking up debt in anticipation of filing for bankruptcy, using bankruptcy as a financial planning tool, and walking away from that which they owe. This hurts our economy because it forces retailers and businesses to simply raise the prices of goods and services for honest Americans. All Americans end up paying the costs for those who have gamed the bankruptcy laws.

I support S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. I am a cosponsor of the House version of this bill. This common sense legislation preserves the right to file bankruptcy for those who truly cannot repay their debts while ensuring that those who do have the ability to repay a portion of their debts do so.

S. 256 provides the same kinds of bankruptcy reforms the House has approved twice before. It restores the principles of fairness and personal responsibility to our bankruptcy system and protects the rights of consumers. S. 256 also requires creditors to help prevent credit card abuse through new disclosures and educational provisions.

This is a good bill for average American consumers, for American businesses, and our economy as a whole.

Mrs. BIGGERT. Mr. Speaker, it is with great pleasure that I rise today to express my strong support for The Bankruptcy Abuse Prevention and Consumer Protection Act.

A Chinese proverb says: ''Give a man a fish and you feed him for a day. Teach a man to fish and you feed him for a lifetime.'' And that's exactly what this bill before us today will do.

There are many reasons to support this Bankruptcy Reform Bill, but I want to focus on one that is important to many of my colleagues, to me and to the American people. We should support the bill because it contains important financial literacy provisions. Financial literacy goes hand-in-hand with helping our citizens of all ages and walks of life to negotiate the complex world of personal finance. Financial literacy can help Americans avoid or survive bankruptcy.

We have passed many laws that require the disclosure of the terms and conditions of the rich mix of financial products and services that are available to consumers.

Unfortunately, for too many Americans, knowing the terms and conditions of financial products and services is challenging enough. However, understanding those terms and conditions is often an even greater challenge. Recognizing this fact, Congress included provisions in the Fair and Accurate Credit Transactions Act to address the issue of financial literacy.

The Bankruptcy Abuse Prevention and Consumer Protection Act, S. 256, also contains important provisions addressing economic education and financial literacy. These provisions are designed to ensure that those who enter the bankruptcy system will learn the skills to more effectively manage their money in an increasingly complicated marketplace.

Before the House considers S. 256, I want to highlight, for my colleagues, some of the bill's important financial literacy provisions:

First: the bill will facilitate educating future generations. It expresses the ''Sense of the Congress'' that personal finance curricula be developed for elementary and secondary education programs. If we teach our children, early-on, how to manage money, credit, and debt, they can become responsible workers, and heads of households and keep their parents out of bankruptcy court.

Second: the bill will provide for pre-filing credit counseling. It requires debtors, prior to filing for bankruptcy, to receive credit counseling from a nonprofit counseling agency. The counseling must include a budget analysis and disclosures regarding the possible impact of bankruptcy on a debtor's credit report.

Next: the bill will provide for pre-discharge financial education, requiring debtors to complete an approved instructional course on personal financial management prior to receiving a discharge under Chapter 7 or 13.

The bill will also include important exceptions. It authorizes phone and Internet counseling for both the pre-filing and pre-discharge education requirements to assist debtors in rural and remote areas. In addition, either or both requirements may be waived if services are not available or in exigent circumstances.

Finally, the bill requires the Director of the Executive Office for U.S. Trustees to: (1) develop a financial management training curriculum and materials to educate individual debtors on how to better manage their finances; and (2) evaluate and report to the Congress on the curriculum's efficacy. This will ensure that Congress can evaluate the effectiveness of these financial literacy provisions in the long-term.

Last week, we passed House Resolution 148, a bill that supports the goals and ideals of Financial Literacy Month, which is this

month, April 2005. H. Res. 148 was co-sponsored by 82 Members of this body and 409 Members of this body voted for it.

Mr. Speaker, the number of bankruptcies remains at a historic high—over 1.6 million bankruptcy cases were filed in federal courts in 2004. With that in mind and in the spirit of Financial Literacy Month, I urge my colleagues to pass S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act, which contains important financial literacy provisions that will provide Americans with the skills needed to successfully navigate the world of personal finance.

Mr. Speaker, let's help our fellow citizens avoid bankruptcy altogether. ''Give a man a fish and you feed him for a day. Teach a man to fish and you feed him for a lifetime.'' Vote for S. 256.

Mr. CASTLE. Mr. Speaker, I am submitting for the RECORD the following remarks from Mr. Arkadi Kuhlmann, CEO of ING DIRECT, in opposition to the bankruptcy reform legislation under consideration. I remain a strong supporter of S. 256; however, I believe Mr. Kuhlmann's statement should be made part of the RECORD.

STATEMENT OF ARKADI KUHLMANN, CEO, ING DIRECT

Mr. Speaker, I am Arkadi Kuhlmann, CEO of ING DIRECT, a federally chartered thrift headquartered in Wilmington, Delaware. ING DIRECT launched in the U.S. in September 2000 to challenge traditional banking by touting the high interest, no fee and no minimum Orange Savings Account as its signature product, with a brand vision to lead Americans back to saving.

ING DIRECT has since expanded its product line to include the Orange Mortgage, the Orange Home Equity Line of Credit, Orange CDs and the Orange Investment Account. With over 2.5 million customers and more than $43 billion in assets, ING DIRECT is the fourth largest thrift in the U.S.

The House is now considering consumer bankruptcy legislation that would make major changes to how consumers' debts and obligations are treated in the bankruptcy process. Thank you for this opportunity to submit testimony for the record on this legislation.

Despite the many important and positive changes this bill would make to our bankruptcy laws, this proposal remains seriously flawed. One significant oversight is the bill's failure to consider one of the biggest problems we face in business today: identity theft.

The Washington Post ran a story recently about a woman whose identity was stolen, yet her credit card company forced the fraudster's debt on her by using the arbitration clause in her card agreement.

The Bankruptcy Bill must address the possibility that identity theft could lead to financial devastation through no fault of the person's own. In addition to overlooking the problem of identity theft, this proposal had additional shortcomings. It actually encourages further bad lending decisions by removing an important market discipline—the possibility of a clean bankruptcy.

Without important changes, millions of consumers, who might otherwise be savers, will be encouraged into debt by aggressive credit card and other lending. We believe it is crucial that a serious study of the connection between credit card marketing and personal bankruptcy be completed. The bill as drafted requires such a study. We challenge the Congress to take a very hard look at the results of the study and consider further legislation, if necessary.

Another important issue is the Bill's creation of a ''means test.'' By giving disparate treatment to secured versus unsecured debt, the law would treat secured creditors even more favorably than under current rules. We believe the means test should be applied across the board or not at all.

We at ING DIRECT believe this country is still willing to give working Americans—the engine of our economy—a second chance when debt overwhelms them. This bill seriously limits that second chance.

Thank you for the opportunity to present our views.

Mr. FARR. Mr. Speaker I rise in strong opposition to the misnamed ''Bankruptcy Abuse Prevention and Consumer Protection Act,'' (S. 256). Current bankruptcy law needs some adjustment, but this bill is not the solution. It hurts middle-class consumers in a variety of ways: the bill would allow landlords to evict battered women without bankruptcy court approval, even if the eviction poses a threat to the women's physical well-being; and, it permits credit card companies to reclaim common households goods which are of little value to them, but very important to the debtor's family.

It is very important to note that the bill does absolutely nothing to discourage abusive underage lending, nothing to discourage reckless lending to the developmentally disabled and nothing to crack down on unscrupulous payday lenders that prey on members of the armed forces.

Last year nearly one and a half million middle class individuals filed for bankruptcy. Their average income was less than $25,000 and the principal causes for their filings were layoffs, health problems and divorce. In my judgment, it is a grave mistake to punish these individuals while rewarding credit card companies and business lobbyists at a time when corporate greed has already destroyed the lives of millions of American workers. I will support a balanced bankruptcy reform bill, but S. 256 is in no way balanced and I believe does more harm than good, therefore I strongly oppose this bill.

Mr. GENE GREEN of Texas. Mr Speaker, I rise today in opposition to this bill.

This bill will weaken homestead protections currently in place under state laws, hurting my constituents, the citizens of Texas, and the citizens of any other states that have laws protecting individuals' homes valued over $125,000, which is the limit this bill sets.

Texas, which has the longest and oldest history of homestead protection laws in our country, has no cap on homestead protection, along with Kansas, Iowa, Florida, and South Dakota.

Minnesota, Rhode Island, and Nevada's laws protect home equity of $200,000.

Property values across the nation vary widely. The median resale price of a home in California is $215,000. In Nebraska it's $70,200.

While I understand there must be a sensible cap on exemptible home equity to ensure the law is not protecting million dollar mansions, $125,000 is unreasonable given the skyrocketing price of real estate in Texas and many other parts of the country.

This bill will make bankruptcy even more expensive and burdensome than it already is, on hardworking Americans who have fallen on hard times and seniors on fixed incomes, while doing nothing to address the out of control lending practices by credit card companies.

Mr. Speaker, I cannot support a bill that will hurt hard-working Texans, and I oppose this bill.

Mr. LEVIN. Mr. Speaker, I rise in opposition to the bankruptcy bill before the House.

This legislation has two fundamental flaws. The first problem is that the bill does not distinguish between those individuals who abuse their credit and then seek to wipe the slate clean through Chapter 7, and those who enter bankruptcy as the result of a costly medical emergency or after one of the breadwinners in a family loses their job. We need to make a distinction between a family who is struggling to pay for a medical operation for a child and a person who maxes out their credit cards on a shopping spree at the mall. This bill does not do so.

A recent Harvard University study underscores the fact that the bankruptcy bill's impact will extend well beyond cracking down on people who abuse credit. The study looked at 1771 bankruptcy filers in five states. The results were striking: Half of the people in the study said that illness or medical bills drove them into bankruptcy. Most of these people actually had some health insurance; but high co-payments, deductibles, exclusions from coverages left them liable for thousands of dollars in out-of-pocket costs when serious illness struck. Other people in the study suddenly lost their jobs and therefore their health insurance. In many cases, people were let go from their jobs soon after the onset of a debilitating illness, so the medical bills begin to arrive just as the insurance and paychecks disappear.

The second fundamental problem left unaddressed by the bill is the credit card industry's role in the surge of bankruptcy filings in recent years. The industry hands out credit cards like popcorn, and then loads on extraordinary penalty fees and higher interest rates after a payment is late. The result is that even if someone wants to pay off their credit debts, they are unable to do so because of thousands of dollars of punitive fees and penalty interest rates that can run as high as 40 percent. The lending policies of the credit card companies themselves is a major factor in driving consumers into bankruptcy, yet the legislation before the House does nothing to end these abuses.

I include with my statement an article from the March 6 edition of the Washington Post entitled, ''Credit Card Penalties, Fees Bury Debtors; Senate Nears Action on Bankruptcy Curbs.''

[From the Washington Post, Mar. 6, 2005]

CREDIT CARD PENALTIES, FEES BURY DEBTORS; SENATE NEARS ACTION ON BANKRUPTCY CURBS

(By Kathleen Day and Caroline E. Mayer)

For more than two years, special-education teacher Fatemeh Hosseini worked a second job to keep up with the $2,000 in monthly payments she collectively sent to five banks to try to pay $25,000 in credit card debt.

Even though she had not used the cards to buy anything more, her debt had nearly doubled to $49,574 by the time the Sunnyvale, Calif., resident filed for bankruptcy last June. That is because Hosseini's payments sometimes were tardy, triggering late fees ranging from $25 to $50 and doubling interest rates to nearly 30 percent. When the additional costs pushed her balance over her credit limit, the credit card companies added more penalties.

''I was really trying hard to make minimum payments,'' said Hosseini, whose financial problems began in the late 1990s when her husband left her and their three children. ''All of my salary was going to the credit card companies, but there was no change in the balances because of that interest and those penalties.''

Punitive charges—penalty fees and sharply higher interest rates after a payment is late—compound the problems of many financially strapped consumers, sometimes making it impossible for them to dig their way out of debt and pushing them into bankruptcy.

The Senate is to vote as soon as this week on a bill that would make it harder for individuals to wipe out debt through bankruptcy. The Senate last week voted down several amendments intended to curb excessive fees and other practices that critics of the industry say are abusive. House leaders say they will act soon after that, and President Bush has said he supports the bill.

Bankruptcy experts say that too often, by the time an individual has filed for bankruptcy or is hauled into court by creditors, he or she has repaid an amount equal to their original credit card debt plus double-digit interest, but still owes hundreds or thousands of dollars because of penalties.

''How is it that the person who wants to do right ends up so worse off?'' Cleveland Municipal Judge Robert J. Triozzi said last fall when he ruled against Discover in the company's breach-of-contract suit against another struggling credit cardholder, Ruth M. Owens.

Owens tried for six years to pay off a $1,900 balance on her Discover card, sending the credit company a total of $3,492 in monthly payments from 1997 to 2003. Yet her balance grew to $5,564.28, even though, like Hosseini, she never used the card to buy anything more. Of that total, over-limit penalty fees alone were $1,158.

Triozzi denied Discover's claim, calling its attempt to collect more money from Owens ''unconscionable.''

The bankruptcy measure now being debated in Congress has been sought for nearly eight years by the credit card industry. Twice in that time, versions of it have passed both the House and Senate. Once, President Bill Clinton refused to sign it, saying it was unfair, and once the House reversed its vote after Democrats attached an amendment that would prevent individuals such as anti-abortion protesters from using bankruptcy as a shield against court-imposed fines.

Credit card companies and most congressional Republicans say current law needs to be changed to prevent abuse and make more people repay at least part of their debt. Consumer-advocacy groups and many Democrats say people who seek bankruptcy protection do so mostly because they have fallen on hard times through illness, divorce or job loss. They also argue that current law has strong provisions that judges can use to weed out those who abuse the system.

Opponents also argue that the legislation is unfair because it ignores loopholes that would allow rich debtors to shield millions of dollars during bankruptcy through expensive homes and complex trusts, while ignoring the need for more disclosure to cardholders about rates and fees and curbs on what they say is irresponsible behavior by the credit card industry. The Republican majority, along with a few Democrats, has voted down dozens of proposed amendments to the bill, including one that would make it easier for the elderly to protect their homes in bankruptcy and another that would require credit card companies to tell customers how much extra interest they would pay over time by making only minimum payments.

No one knows how many consumers get caught in the spiral of ''negative amortization,'' which is what regulators call it when a consumer makes payments but balances continue to grow because of penalty costs. The problem is widespread enough to worry federal bank regulators, who say nearly all major credit card issuers engage in the practice.

Two years ago regulators adopted a policy that will require credit card companies to set monthly minimum payments high enough to cover penalties and interest and lower some of the customer's original debt, known as principal, so that if a consumer makes no new charges and makes monthly minimum payments, his or her balance will begin to decline.

Banks agreed to the new rules after, in the words of one top federal regulator, ''some arm-twisting.'' But bank executives persuaded regulators to allow the higher minimum payments to be phased in over several years, through 2006, arguing that many customers are so much in debt that even slight increases too soon could push many into financial disaster.

Credit card companies declined to comment on specific cases or customers for this article, but banking industry officials, speaking generally, said there is a good reason for the fees they charge.

''It's to encourage people to pay their bills the way they said they would in their contract, to encourage good financial management,'' said Nessa Feddis, senior federal counsel for the American Bankers Association. ''There has to be some onus on the cardholder, some responsibility to manage their finances.''

High fees ''may be extreme cases, but they are not the trend, not the norm,'' Feddis said.

''Banks are pretty flexible,'' she said. ''If you are a good customer and have an occasional mishap, they'll waive the fees, because there's so much competition and it's too easy to go someplace else.'' Banks are also willing to work out settlements with people in financial difficulty, she said, because ''there are still a lot of options even for people who've been in trouble.''

Many bankruptcy lawyers disagree. James S.K. ''Ike'' Shulman, Hosseini's lawyer, said credit card companies hounded her and did not live up to several promises to work with her to cut mounting fees.

Regulators say it is appropriate for lenders to charge higher-risk debtors a higher interest rate, but that negative amortization and other practices go too far, posing risks to the banking system by threatening borrowers' ability to repay their debts and by being unfair to individuals.

U.S. Bankruptcy Judge David H. Adams of Norfolk, who is also the president of the National Conference of Bankruptcy Judges, said many debtors who get in over their heads ''are spending money, buying things they shouldn't be buying.'' Even so, he said, ''once you add all these fees on, the amount of principal being paid is negligible. The fees and interest and other charges are so high, they may never be able to pay it off.''

Judges say there is little they can do by the time cases get to bankruptcy court. Under the law, ''the credit card company is legally entitled to collect every dollar without a distinction'' whether the balance is from fees, interest or principal, said retired U.S. bankruptcy judge Ronald Barliant, who presided in Chicago. The only question for the courts is whether the debt is accurate, judges and lawyers say.

John Rao, staff attorney of the National Consumer Law Center, one of many consumer groups fighting the bankruptcy bill, says the plight consumers face was illustrated last year in a bankruptcy case filed in Northern Virginia.

Manassas resident Josephine McCarthy's Providian Visa bill increased to $5,357 from $4,888 in two years, even though McCarthy has used the card for only $218.16 in purchases and has made monthly payments totaling $3,058. Those payments, noted U.S. Bankruptcy Judge Stephen S. Mitchell in Alexandria, all went to ''pay finance charges (at a whopping 29.99%), late charges, over-limit fees, bad check fees and phone payment fees.'' Mitchell allowed the claim ''because the debtor admitted owing it.'' McCarthy, through her lawyer, declined to be interviewed.

Alan Elias, a Providian Financial Corp. spokesman, said: ''When consumers sign up for a credit card, they should understand that it's a loan, no different than their mortgage payment or their car payment, and it needs to be repaid. And just like a mortgage payment and a car payment, if you are late you are assessed a fee.'' The 29.99 percent interest rate, he said, is the default rate charged to consumers ''who don't meet their obligation to pay their bills on time'' and is clearly disclosed on account applications.

Feddis, of the banker's association, said the nature of debt means that interest will often end up being more than the original principal. ''Anytime you have a loan that's going to extend for any period of time, the interest is going to accumulate. Look at a 30-year-mortgage. The interest is much, much more than the principal.''

Samuel J. Gerdano, executive director of the American Bankruptcy Institute, a nonpartisan research group, said that focusing on late fees is ''refusing to look at the elephant in the room, and that's the massive levels of consumer debt which is not being paid. People are living right up to the edge,'' failing to save so when they lose a second job or overtime, face medical expense or their family breaks up, they have no money to cope.

''Late fees aren't the cause of debt,'' he said.

Credit card use continues to grow, with an average of 6.3 bank credit cards and 6.3 store credit cards for every household, according to Cardweb.com Inc., which monitors the industry. Fifteen years ago, the averages were 3.4 bank credit cards and 4.1 retail credit cards per household.

Despite, or perhaps because of, the large increase in cards, there is a ''fee feeding frenzy,'' among credit card issuers, said Robert McKinley, Cardweb's president and chief executive. ''The whole mentality has really changed over the last several years,'' with the industry imposing fees and increasing interest rates if a single payment is late.

Penalty interest rates usually are about 30 percent, with some as high as 40 percent, while late fees now often are $39 a month, and over-limit fees, about $35, McKinley said. ''If you drag that out for a year, it could be very damaging,'' he said. ''Late and over-limit fees alone can easily rack up $900 in fees, and a 30 percent interest rate on a $3,000 balance can add another $1,000, so you could go from $2,000 to $5,000 in just one year if you fail to make payments.''

According to R.K. Hammer Investment Bankers, a California credit card consulting firm, banks collected $14.8 billion in penalty fees last year, or 10.9 percent of revenue, up from $10.7 billion, or 9 percent of revenue, in 2002, the first year the firm began to track penalty fees.

The way the fees are now imposed, ''people would be better off if they stopped paying'' once they get in over their heads, said T. Bentley Leonard, a North Carolina bankruptcy attorney. Once you stop paying, creditors write off the debt and sell it to a

debt collector. ''They may harass you, but your balance doesn't keep rising. That's the irony.''

Mr. LANGEVIN. Today I rise in support of the Pomeroy substitute to H.R. 8, the Estate Tax Repeal Permanency act, and in opposition to the underlying bill. As the son of a small business owner, I know firsthand the tax burden placed on entrepreneurs and working families, and I support efforts to responsibly protect small business owners.

The Pomeroy substitute provides needed relief by eliminating estate taxes for assets totaling $3.5 million per individual or $7 million per married couple. Increasing the exemption to this level would mean that 99.7 percent of all estates will not pay a single penny of the estate tax. Small businesses and farm owners should not be penalized for their success, nor should they need to worry about their ability to pass the family business on to future generations, and the substitute addresses these concerns.

H.R. 8 goes far beyond providing fair tax relief to small businesses and family farms. While the benefits overwhelmingly go to the wealthiest 0.3 percent of estates, Republican leaders fail to mention that their proposal actually raises taxes on thousands of estates, including those not previously affected by the estate tax. This is because their legislation increases capital gain taxes owed on inherited property. The Department of Agriculture estimates that this change will raise taxes on more farms than would benefit from repealing the tax.

The Republicans' call for repealing the estate tax comes at a time when our government is already in fiscal crisis. Ending the estate tax will reduce revenues by $290 billion over ten years, and by 2021, this legislation will have added a total of more than $1 trillion to our debt. With a $400 billion deficit projected this year, now is not the time to add trillions in debt to the tab that future generations must pay. These added costs also come as the President proposes to privatize Social Security at a cost of up to $6 trillion. In addition, the House recently passed a budget that cuts $20 billion from Medicare and underfunds critical priorities including veterans' health care and homeland security. We must work to meet our existing obligations rather than cutting taxes for the wealthiest 0.3 percent of families in America.

Based on Internal Revenue Service data for 2004, out of approximately 10,000 deaths in my home state, only 312 Rhode Island decedents filed estate tax returns. This number would be much lower with the $3.5 million exemption under the Pomeroy substitute. Under our Democratic alternative, most small business owners and family farmers would receive estate tax relief.

I urge my colleagues to join me in supporting permanent reform of the estate tax, but not irresponsibly repealing it. Our small business owners are in need of relief, and we must provide it without leaving future generations to pay the bill.

Mr. ROYCE. Mr. Speaker, today, Congress has the opportunity to finish the task of preventing corporate malfeasance by agreeing to pass S. 256.

Included in this bill is a sensible provision that sharply limits to $125,000 the homestead exemption that many CEOs and corporate officers have used to shield their assets from creditors after they plunder their shareholders' wealth.

By empowering the government to go after the ill-gotten gains that crooked corporate officers tie up in offshore mansions, shareholders and pensioners who have been swindled can have their hard-earned savings returned to them.

In addition, this bill prohibits people convicted of felonies like securities fraud from claiming an unlimited exemption when filing for bankruptcy, protecting taxpayers from having to bear the cost of corporate malfeasance.

It also guards against fraud and abuse by requiring that high-income debtors who have the ability repay a significant portion of their debts do so, preventing them from sticking responsible borrowers with their tab. It accomplishes all of this while preserving the ability of people who truly need to discharge their debts to do so.

For far too long, Americans who work hard and pay their bills have been held accountable for the debts incurred by those who irresponsibly file for bankruptcy.

This long-overdue legislation will reform the critically-flawed bankruptcy process, and prevent affluent filers from gaming the system and passing on their bad debt to hard-working families while preserving the ability of people who truly need to discharge their debt through bankruptcy to do so.

Bankruptcy should be preserved as a last resort for those who truly need the protections that the bankruptcy system has to offer—not a tool for those who could pay their debts but choose to discharge them instead.

By agreeing to this legislation, Congress will make the existing bankruptcy system a needs-based one and correct the flaw in the current system that encourages people to file for bankruptcy and walk away from debts, regardless of whether they are able to repay any portion of what they owe; and it does this while protecting those who truly need protection.

I commend my colleagues for their hard work on this legislation, and I strongly urge my colleagues to vote in favor of this report and help honest taxpayers by closing the loopholes in the current bankruptcy system.

Mr. MACK. Mr. Speaker, I rise today in support of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

I came to Congress to promote the ideals of freedom, security and prosperity. Embodied within these principles is the duty of the American people to take responsibility for their actions—including control of one's personal finances and investments—without undue influence from the federal government.

Under current law, bankruptcy protection has increasingly become a first stop rather than a last resort. Our credit markets have been undermined on a daily basis because of the abuse of the existing laws. All too often, people run to the shelter of bankruptcy to escape the consequences of their actions, all to the detriment of the rest of society. That is fundamentally wrong.

Mr. Speaker, the Bankruptcy Abuse Prevention and Consumer Protection Act reforms existing bankruptcy law to stem the rise in bankruptcy abuse while maintaining its protections for those who really need them. The act places compassionate, coherent, and common-sense reforms on the current system. It ensures that frivolous costs are no longer unfairly passed on to American families.

Mr. Speaker, as a supporter of the Bankruptcy Abuse Prevention and Consumer Protection Act, I encourage my colleagues to vote for this well-balanced measure that will protect those individuals who need a fresh start while cracking down on abuse of the system.

Mr. CASTLE. Mr. Speaker, I rise today in strong support of S. 256, the ''Bankruptcy Abuse and Consumer Prevention Act of 2005.''

It has been seven years since we made our first attempt to reform the bankruptcy system in the 105th Congress and thanks to the tireless efforts of Chairman SENSENBRENNER's Committee, we can see a real chance for passing a full and comprehensive bill this year.

Mr. Speaker, we have seen a sharp increase in bankruptcies over the past 25 years. In 2003, consumer filings peaked at over 1.6 million filings—a 465 percent increase from 1980. Those who believe credit card companies, mortgage lenders and other financial institutions are bearing the costs of consumer's filing for bankruptcy don't understand how business works. American families are paying the price for this debt—some studies reflect $400 per year in every household—by higher interest rates on their credit cards, auto loans, school loans and mortgages. When the legislation before us passes today it will be the American families that are the real winners.

This legislation balances the consumer's challenge of debt repayment with the needs of businesses to collect money rightfully owed to them. In an effort to better educate consumers and improve financial literacy, the legislation requires many filers of bankruptcy to attend financial counseling. This change, coupled with Congressional encouragement for schools to incorporate personal finance curricula in elementary and secondary education programs, are both useful methods of curbing future debt. As Chairman of the Education Reform Subcommittee, which has jurisdiction over all K–12 programs, I feel strongly that educating future spenders can prevent debts incurred as adults.

I also support the new requirement for lending institutions, which will now have to take additional steps to ensure consumers fully understand the ramifications of credit spending. Credit card billing statements will now reflect the actual time it would take to repay a full balance at a specified interest rate; contain warnings to alert consumers that paying only the minimum will increase the amount of interest; and list a toll-free number for consumer's to call for an estimate of the time it would take to repay the balance if only the minimum is paid. With these steps, lending institutions can improve their chances of repayment while proactively educating consumers of true costs associated with borrowing.

I believe the ''Bankruptcy Abuse and Consumer Protection Act'' reflects fair solutions to minimizing spending abuse, while protecting those with genuine hardship. Relief is still available for low and moderate income families. However, this legislation will end the protection for those who make obvious attempts to abuse their credit. Those who are able to pay their debts—will now be held to those commitments—through means testing. A means test would be used to determine a debtor's eligibility for Chapter 7 bankruptcy relief, where the majority of debt is excused, or Chapter 13, where a significant portion of debt

must be repaid. Importantly, disabled veterans would be exempt from the means test if their debts occurred primarily as a result of being called to active duty or for homeland defense operations.

Lastly, Mr. Speaker, this legislation also includes four additional judges for Delaware's bankruptcy court. This increase is long overdue, as the bankruptcy caseloads in Delaware continue to exceed other districts' caseloads for Chapter 11 businesses cases. Last year alone, weighted filings for Delaware judges were 11,789, while the national average was 1,763—in other words, the Delaware caseload was 10 times the national average. The Delaware District tends to have the largest Chapter 11 business cases, often referred to as the ''mega'' Chapter 11 cases which are ''those involving extremely large assets, unusual public interest, a high level of creditor involvement, complex debt, a significant amount of related litigation, or a combination of such factors.'' These are complex cases in which the judicial system in Delaware has built a high level of expertise as well as a sound reputation for fair practices. I am pleased the legislation before us today takes a solid step towards alleviating Delaware's heavily burdened bankruptcy court system.

Again, Mr. Speaker, I want to thank Chairman SENSENBRENNER for his years of strong and tenacious support for this legislation and thank him for not giving up on these important, common-sense changes to our bankruptcy system. I urge my colleagues to support this bipartisan legislation.

Mr. TERRY. Mr. Speaker, in pertinent part, section 202 of S. 256, the ''Bankruptcy Abuse Prevention and Consumer Protection Act of 2005,'' amends section 524 of the Bankruptcy Code by making the discharge injunction inapplicable to certain acts by a creditor having a claim secured by a lien on real property that is the debtor's principal residence, so long as the creditor satisfies certain criteria. First, the creditor's act must be in the ordinary course of business between the creditor and debtor. Second, such act is limited to seeking periodic payments associated with a valid security interest in lieu of pursuit of in rem relief to enforce the lien.

Section 202 was included because Congress recognized that there are many consumer debtors who, despite filing bankruptcy, desire to repay secured obligations in order to retain their principal residences. Under current law, however, some secured creditors stop sending monthly billing statements or payment coupons for fear of violating the discharge injunction. Section 202 is intended to reassure these secured creditors that if consumer debtors want to continue making voluntary payments so they can keep their principal residences, then secured creditors may take appropriate steps to facilitate such payment arrangements, such as continuing to send monthly billing statements or payment coupons.

Moreover, despite the express reference in this provision to liens on real property, section 202 should not, by negative inference or implication, be construed as limiting any rights that may have developed through existing case law, or otherwise, that permit secured creditors to send, or consumer debtors to request and receive, monthly billing statements or payment coupons for claims secured by real or personal property. See, e.g., Ramirez v. GMAC (In re Ramirez), 280 B.R. 253 (C.D. Cal. 2002); Henry v. Associates Home Equity Services, Inc (In re Henry), 266 B.R. 457 (Bankr. C.D. Cal. 2002).

Mr. KOLBE. Mr. Speaker, after eight years of intense Congressional scrutiny and debate, this long-overdue legislation is now close to becoming law. I will vote in favor of this legislation, just as I have supported similar bills in the past, and I encourage my colleagues to pass S. 256 without amendments so it can go directly to the President for his signature.

Without a doubt, bankruptcy reform is needed. Under current law, it is far too easy for debtors with significant cash resources to declare bankruptcy and walk away from their debts, even when they have the ability to pay a substantial portion of those debts. Bankruptcies cost the rest of us American taxpayers billions of dollars each year. Why? Because commercial institutions have to pass their losses on to everyone else in the form of higher prices and higher interest rates. The Bankruptcy Abuse Prevention and Consumer Protection Act is a well-balanced measure that will permit people with real financial need to get a fresh start, but lessen the burden placed on other working Americans who now must support people who are taking advantage of the system.

This bankruptcy reform bill will force those who have the ability to repay their debts to do so. At the same time, it provides safeguards such as child and spousal protections, debtor education, and mandatory credit counseling before someone files for bankruptcy. The bill also makes common-sense revisions to homestead exemptions to reduce the ability of a wealthy individual shielding his money in an extravagant home just prior to filing bankruptcy.

Put simply, this legislation helps restore the fundamental concept of personal responsibility in the bankruptcy system. I urge my colleagues to adopt.

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

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

Pursuant to House Resolution 211, the bill is considered read for amendment, and the previous question is ordered.

The question is on the third reading of the bill.

The bill was ordered to be read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MS. SCHAKOWSKY

Ms. SCHAKOWSKY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Ms. SCHAKOWSKY. Yes.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

Ms. SCHAKOWSKY moves to recommit the bill (S. 256) to the Committee on the Judiciary, with instructions to report the bill back to the House forthwith, with the following amendment:

Page 14, after line 6, insert the following:

''(E) Subparagraphs (A) through (C) shall not apply, and the court may not dismiss or convert a case filed under this chapter based on any form of means testing—

''(i)(I) while the debtor is on, and during the 2-year period beginning immediately after the debtor is released from, active duty (as defined in section 101(d)(1) of title 10); or

''(II) while the debtor is performing, and during the 2-year period beginning immediately after the debtor is no longer performing, a homeland defense activity (as defined in section 901(1) of title 32); and

''(ii) if—

''(I) after September 11, 2001, the debtor was called to active duty or to perform a homeland defense activity; and

''(II) a substantial portion of the debts arose on or after September 11, 2001 and resulted from the debtor's service on active duty or the debtor's performance of a homeland defense activity.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Illinois (Ms. SCHAKOWSKY) is recognized for 5 minutes in support of her motion.

Ms. SCHAKOWSKY. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise today with the gentleman from Ohio (Mr. STRICKLAND) to offer this motion on behalf of our brave citizen soldiers who are risking their lives for us and then, as a thank you, risking their homes and their businesses, too. Our motion simply shields financially distressed National Guard and Reservists from the means test found in S. 256 while they are in service and for the 2 years after they have transitioned back to civilian life if a substantial portion of their debt is due to their service.

This motion is a narrow protection for those who suffer financial hardship, financial disaster, as a direct result of serving our country. It builds on Senator DURBIN's amendment to the Senate bankruptcy bill which exempts from the bill's means test disabled veterans if their debts were incurred primarily when they were on active duty or performing homeland defense duties.

Regardless of Members' position on the overall bill, we owe it to those who risk their lives and their livelihoods to prevent financial catastrophe caused by their service. This motion is the least we can do to ease their pain.

According to the National Guard, 4 out of 10 members of the guard and reserve forces lose income when they leave their civilian jobs for active duty. Many left for the war thinking they would be deployed for 6 months and have ended up staying for a year or even longer and may be shipped out again. There is no reasonable way they could have financially anticipated and prepared for those extensions of their service. Their families struggle to pay the bills. Some face the reality of losing their homes, as this cartoon depicts: Tie a yellow ribbon around the old oak tree, and for some of those returning from Iraq, it is a foreclosure sign around their house.

Many Guard and Reservists are self-employed or run small businesses and face the daunting task of reestablishing their businesses after their release from active duties. The 2 years after they return from service are the

most difficult, and we owe it to them to provide a safe harbor from the means test.

Since 9/11, approximately 470,000 Guard and Reservists have been called to active duty, tens of thousands more than once. Some of these patriotic Americans are facing financial crisis not because they are exploiting loopholes in the bankruptcy law, they are not scheming to avoid paying their debts, they are in a financial hole their country dug for them.

Some will argue we do not need this motion because our solders are already covered by the Servicemembers' Civil Relief Act, but that is not true. Even with that minimal help, many are forced to file for bankruptcy and the relief act provides no assistance once they file. It is hard enough under current law for them to pick up the pieces. The special circumstances and sacrifices of Guard and Reserve forces require that we not make recovery even harder for them. Soldiering is not their livelihood, but they take it on. They leave their day-to-day lives and jobs behind because their country asks them to do so. Exemption from the means test is the least we can do to tell our citizen soldiers and their families not only do we appreciate the physical and emotional risks they have taken, we recognize their financial risk.

To do any less than this simple, narrow protection would be morally bankrupt.

DISABLED AMERICAN VETERANS,
Washington, DC, April 1, 2005.

Hon. JOHN CONYERS, Jr.,
Ranking Minority Member, House Committee on the Judiciary, Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE CONYERS: The Disabled American Veterans (DAV) is a nonprofit organization of more than one million veterans disabled during time of war or armed conflict. The DAV is the official voice of our nation's service-connected disabled veterans, their families, and survivors.

On behalf of the DAV, I ask you please keep in mind the sacrifices of the brave men and women of our Armed Forces as you consider S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

Returning service members often experience financial difficulties during their transition back to civilian life. They should be afforded protections to ensure that the already significant burdens upon military members and their families are not compounded by unintended consequences from this bill. Specifically, disabled veterans who incur debt during the initial 24 months following completion of active duty should not be subject to the bankruptcy means test. Such heroic citizens deserve the utmost consideration with regard to bankruptcy laws.

Thank you for your consideration. I look forward to continuing to work with you to ensure better lives for America's service-connected disabled veterans and their families.

Sincerely,

JOSEPH A. VIOLANTE,
National Legislative Director.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. STRICKLAND), a champion for our service men and women.

Mr. STRICKLAND. Mr. Speaker, I support this motion to recommit because it provides added financial protections for veterans, military personnel and their families who are enduring financial hardships as a direct result of serving this country.

Additionally, this motion to recommit offers help to members of the Reserves and National Guard who all too often must leave behind their family jobs and businesses. It provides protection not just during service but also for the 2 years after service when our veterans make the transition back to civilian life. This measure will guarantee what the Servicemembers Relief Act does not. It will provide exemptions from the means test, financial assistance and time, something our servicemembers selflessly give to the Nation and something we should give to them.

The Servicemembers Civil Relief Act does not provide substantial bankruptcy protections. Rather, it provides a simple, temporary 90-day delay in bankruptcy proceedings once a servicemember is released from active duty.

□ 1500

Let us be clear. No bankruptcy safe harbor or exemption exists for our citizen soldiers under the Servicemembers Civil Relief Act currently. This motion is not an attempt to kill the bill. It is simply a reaction to a real problem that has been highlighted in countless news stories, by the National Military Families Association, Disabled Veterans of America, and individual servicemembers. These are people experiencing real and difficult financial situations. I support this motion to provide this narrow protection for those men and women who have served our country, and I urge my colleagues to do the same.

I thank my dear colleague for her efforts in this behalf.

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore (Mr. PUTNAM). The gentleman from Wisconsin (Mr. SENSENBRENNER) is recognized for 5 minutes.

Mr. SENSENBRENNER. Mr. Speaker, the motion to recommit creates a blanket exemption from the bill's needs-based test, and I do not think that that is necessary because it would exempt a wealthy debtor from the needs-based test solely based on the debtor's military service. People who fall behind the lines of the needs-based test will continue to have bankruptcy protection under chapter 7 as is provided in the current law. The bill also contains an exception from the needs-based test for disabled veterans who incurred indebtedness while on active duty.

CRS and even the New York Times recognized that the Servicemembers Civil Relief Act of 2003 provides a broad spectrum of protection to servicemembers, their spouses and their dependents; and the revised statute, according to the New York Times, is clearer and more protective than the old one. The Times also recognized that the news was apparently slow in reaching those who would have to interpret and enforce the law, which apparently includes the people who are offering this motion to recommit.

Let me summarize. Already there is in law, signed by President Bush in 2003, we have responded to the special financial burdens that members of the military may encounter. CRS has said the Servicemembers Civil Relief Act provides protection for servicemembers in the event their military service impedes their ability to meet financial obligations incurred before their entry into active military service, as well as during that service. There is a cap on the interest rates of 6 percent. It clarifies that the balance of interest for the period of the servicemember's military service is to be forgiven by the lender.

There are protections against evictions from rental property or foreclosures on mortgaged property. There are restrictions on cancellation of life insurance and more flexible options to allow servicemembers on active duty to terminate residential and automobile leases.

We do not need this motion to recommit. Congress has already passed a law that provides those types of protections. The motion to recommit should be defeated, and the bill should be passed.

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

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

Ms. SCHAKOWSKY. 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.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—yeas 200, nays 229, not voting 6, as follows:

[Roll No. 107]

YEAS—200

Abercrombie	Boren	Clay
Ackerman	Boswell	Cleaver
Allen	Boyd	Clyburn
Andrews	Brady (PA)	Conyers
Baca	Brown (OH)	Cooper
Baird	Brown, Corrine	Costa
Baldwin	Butterfield	Costello
Barrow	Capps	Cramer
Bean	Capuano	Crowley
Becerra	Cardin	Cuellar
Berman	Cardoza	Cummings
Berry	Carnahan	Davis (AL)
Bishop (GA)	Carson	Davis (CA)
Bishop (NY)	Case	Davis (FL)
Blumenauer	Chandler	Davis (IL)

Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—229

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—6

Berkley
Gillmor
Gutierrez
LaHood
Solis
Weldon (FL)

□ 1529

Messrs. TURNER, TANCREDO, CRENSHAW, and BRADLEY of New Hampshire changed their vote from ''yea'' to ''nay.''

Ms. EDDIE BERNICE JOHNSON of Texas and Messrs. RUSH, BOREN, and JOHNSON of Illinois changed their vote from ''nay'' to ''yea.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

Stated for:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 107 on motion to recommit with instructions (S. 256) I was unavoidably detained. Had I been present, I would have voted ''yea.''

The SPEAKER pro tempore (Mr. PUTNAM). The question is on passage of the bill.

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

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

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 302, nays 126, not voting 7, as follows:

[Roll No. 108]

YEAS—302

Aderholt
Akin
Alexander
Andrews
Baca
Bachus
Baird
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Coble
Cole (OK)
Conaway
Cooper
Costa
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cunningham
Davis (AL)
Davis (FL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
English (PA)
Etheridge
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Gutknecht
Hall
Harman
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Israel
Issa
Istook
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Matheson
McCarthy
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Pastor
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Portman
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Salazar
Saxton
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Sodrel
Souder
Spratt
Stearns
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—126

Abercrombie
Ackerman
Allen
Baldwin
Barrow
Becerra
Berman
Bishop (NY)
Blumenauer
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Clay
Clyburn
Conyers
Costello
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle

Emanuel	Lowey	Sánchez, Linda T.
Engel	Lynch	Sanchez, Loretta
Eshoo	Maloney	Sanders
Evans	Markey	Schakowsky
Farr	Marshall	Schiff
Fattah	Matsui	Scott (VA)
Filner	McCollum (MN)	Serrano
Frank (MA)	McDermott	Sherman
Green, Gene	McGovern	Slaughter
Grijalva	McKinney	Smith (WA)
Hastings (FL)	McNulty	Snyder
Hinchey	Meehan	Stark
Holt	Millender-McDonald	Stupak
Honda	Miller (NC)	Thompson (MS)
Inslee	Miller, George	Tierney
Jackson (IL)	Moore (WI)	Towns
Jackson-Lee (TX)	Nadler	Udall (CO)
Johnson, E. B.	Napolitano	Udall (NM)
Jones (OH)	Neal (MA)	Van Hollen
Kanjorski	Oberstar	Velázquez
Kaptur	Obey	Visclosky
Kennedy (RI)	Olver	Wasserman Schultz
Kildee	Owens	Waters
Kilpatrick (MI)	Pallone	Watson
Kucinich	Pascrell	Watt
Langevin	Payne	Waxman
Larson (CT)	Pelosi	Weiner
Lee	Rangel	Wexler
Levin	Roybal-Allard	Woolsey
Lewis (GA)	Rush	
Lipinski	Ryan (OH)	
Lofgren, Zoe	Sabo	

NOT VOTING—7

Berkley	LaHood	Weldon (FL)
Gillmor	Lantos	
Gutierrez	Solis	

□ 1539

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 108 on final passage (S. 256) I was unavoidably detained. Had I been present, I would have voted "nay."

ANNOUNCEMENT BY COMMITTEE ON RULES REGARDING H.R. 6, ENERGY POLICY ACT OF 2005

Mr. DREIER. Mr. Speaker, I know that our colleagues, the gentleman from Maryland (Mr. HOYER) and the gentleman from Texas (Mr. DELAY), will be engaged in a colloquy in just a moment; and the announcement that I have will, I believe, relate to the colloquy that they are about to engage in.

Mr. Speaker, the Committee on Rules may meet next week to grant a rule which could limit the amendment process for floor consideration of the Energy Policy Act of 2005, which is expected to be introduced Monday, April 18, as H.R. 6. Any Member wishing to offer an amendment should submit 55 copies of the amendment, one written copy of a brief explanation of the amendment, and one electronic copy of the same to the Committee on Rules up in H–312 of the Capitol by 12 noon on Tuesday, April 19, 2005.

Members are advised that the combined text from the committees of jurisdiction should be available for their review on the committees' Web sites as well as on the Committee on Rules Web site by tomorrow, Friday, April 15. Members should use the Office of Legislative Counsel to ensure that their amendments are drafted in the most appropriate format. Members are also advised to talk with the Office of the Parliamentarian to be certain that their amendments comply with the rules of the House.

Mr. Speaker, I would like to say, Go Nationals.

LEGISLATIVE PROGRAM

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

Mr. HOYER. Mr. Speaker, I take this time for the purpose of inquiring of the majority leader the schedule for the coming week.

Mr. Speaker, I yield to the distinguished majority leader, the gentleman from Texas (Mr. DELAY).

Mr. DELAY. I thank the distinguished whip for yielding to me.

Mr. Speaker, the House will convene on Tuesday at 2 p.m. for legislative business. We will consider several measures under the suspension of the rules. A final list of those bills will be sent to the Members' offices by the end of the week. Any votes called on these measures will be rolled until 6:30 p.m.

On Wednesday and Thursday, the House will convene at 10 a.m. for legislative business. We will likely consider additional legislation under the suspension of the rules, as well as H.R. 6, the Energy Policy Act of 2005.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman for informing us of that schedule.

Mr. Leader, tomorrow is a day on which the conference report on the budget is supposed to be adopted, as you well know. However, the House is yet to appoint conferees. When might we appoint conferees, given the fact that we are already behind schedule?

Mr. DELAY. Mr. Speaker, if the gentleman will yield further, obviously we would have liked to have met the statutory deadline of April 15, but, unfortunately, we will not. I am advised that the Speaker has not yet decided when he would like to appoint the conferees to meet with the Senate, but it could occur as early as next week.

Hopefully, within the next few weeks we will have a conference report for the House to consider that provides for the extension of the pro-growth tax policies enacted in 2001 and 2003, reduces non-security discretionary spending, and provides for important reforms of entitlement programs.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman. Obviously he articulates reasons that he believes this bill is an important piece of legislation.

In light of the fact that the Speaker has not yet decided who he wants to appoint as conferees, does the gentleman have any thought as to when we might contemplate having the conference committee meet and then, of course, the conference report on the floor? I ask that from two perspectives: one, as the representative of the party who would like to know what is going on, as I am sure the gentleman would as well; and, secondly as an appropriator.

As the gentleman knows, until the conference committee report is adopted, it has the appropriations committees somewhat in limbo as it relates to allocations to the committees and then allowing us to make the 302(b) allocations.

Mr. Speaker, I yield further to my friend in terms of what expectations he might have as to timing from this point to when we might adopt a budget, in light of the fact it is my understanding from the staff of the gentleman from California (Mr. LEWIS) that there is hope that we will start to mark up bills sometime in mid-May. I do not know whether the majority leader has the same understanding or not.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman continuing to yield. The gentleman has touched on many points. I am advised, and I stand to be corrected, but having served on the Committee on Appropriations, the rules allow that once we pass the April 15 deadline for having a budget, the Committee on Appropriations is allowed to start their work without a budget.

I am advised also by the gentleman from California (Chairman LEWIS) of the Committee on Appropriations, who is walking in front of me right now and hopefully will correct me if I am wrong, that the gentleman from California (Chairman LEWIS) has begun the appropriations process in earnest and he has a very ambitious schedule. In fact, I am told that we will have the opportunity to schedule appropriations bills for the floor by the middle of May, and I anticipate, not anticipate, we have set as a schedule, another way of putting it, we have turned over the schedule to the Committee on Appropriations to get their work done. It will be a very ambitious appropriations schedule starting the middle of May.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I would be pleased to yield to my friend, the gentleman from California, the distinguished chairman of the Committee on Appropriations.

□ 1545

Mr. LEWIS of California. Mr. Speaker, I appreciate my Appropriations colleague yielding me a moment just to say that my colleague, the gentleman from Wisconsin (Mr. OBEY), and I have spent a lot of time together discussing these questions and the schedule and otherwise. The relationship is extremely positive, and I believe he and I this week, before the week is out, will have a chance to sit down and talk about 302(b)s, for example. We are going to move forward very expeditiously, and I think it will benefit, one more time, my colleague and I, who are Appropriations members together, and it will benefit our committee greatly.

I very much appreciate the gentleman yielding.

Mr. HOYER. Mr. Speaker, reclaiming my time, I appreciate the gentleman's observation.

My presumption is then, Mr. Chairman, before he leaves the floor, my presumption would be, for the Members of the House and also for the members of the Committee on Appropriations, that the Committee on Appropriations will proceed as if the House numbers were the numbers? Am I correct on that? I yield to the gentleman.

Mr. LEWIS of California. Mr. Speaker, we have come to the conclusion, by looking at some recent history, that we can, within pretty close margins, measure what our likely allocations will be. The subcommittees are proceeding as though there are numbers, recognizing full well that we will have to respond to the final budget package as they have given it to us and as we have talked between subcommittee chairmen, but we can pretty well guesstimate.

In the past, I believe that we have tended to delay our process because we decided we had to wait until the budget process was already complete, and we let supplementals interfere with that process, et cetera. So, in the past, we found ourselves sending our product to the other body just as we go past the end of the fiscal year, hardly giving them the time to do the kind of work that they would like to do, thus the omnibus, et cetera.

The cooperation between the two bodies, I must say to my colleague, is better than I could ever have imagined. It is a fabulous, growing relationship, and I think it will benefit both of the bodies.

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

Mr. HOYER. I yield to the gentleman from Texas.

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

The gentleman's original question was when will we see a conference report for the budget come to the floor. I am hoping as soon as possible, obviously. I have no idea when the negotiations with the House and the Senate will start in earnest, when we will appoint the conference committee. There is very little difference, quite frankly, from the House bill and the Senate bill, and I would assume that the major issues will be taken care of in a matter of days, if not a couple of weeks.

So I would assume that we could have a conference report on a budget hopefully by the first of May. At least that is what we would like to see happen.

Mr. HOYER. Mr. Speaker, I thank the gentleman.

Reclaiming my time, the business that the gentleman from Texas has set forth for next week is the energy business. Given the schedule the gentleman has just announced, would the gentleman expect the bill to be on the floor both Wednesday and Thursday?

Mr. DELAY. Mr. Speaker, if the gentleman will yield, that is correct, both Wednesday and Thursday. This is a major, major piece of legislation, as the gentleman from Maryland knows. This bill has passed this House before. It required lengthy debate. It also required time to consider amendments, and we anticipate it taking all of Wednesday and most of Thursday to complete.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the leader.

Given the time that is allocated to this bill, I presume, as the Leader has apparently indicated, that it is the expectation of the Committee on Rules to have a full amendatory process. My expectation is you are not going to have a fully open rule but that you would have some modified open rule. Am I correct on that?

I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding. Obviously, I cannot anticipate what the Committee on Rules may do on this bill.

Mr. HOYER. Mr. Speaker, reclaiming my time, some of us do not believe that is quite as obvious as the gentleman does.

I yield back to the gentleman.

Mr. DELAY. I appreciate the gentleman yielding.

I do recall that in the last Congress when we approached the energy bill there was I think at least 20, if not more, amendments allowed on the bill. I would anticipate that the same approach, because the bill is very similar to the bill we passed in the last Congress, would be taken.

Mr. HOYER. Mr. Speaker, reclaiming my time, I appreciate the Leader's observation. I know that, on our side, we had a discussion on that bill this morning. All of us believe the energy bill is a very, very important piece of legislation. All of us are concerned about the gas prices that are confronting all of our constituents. I have a number of employees who commute significant distances. Although they live relatively close by, it is a 45-minute commute in traffic and a lot of gas, and they spend a lot of money on gasoline. In addition to that, energy independence, of course, is part of our national security. So we are hopeful that we will fashion a bill in a bipartisan way that we can see passed and signed by the President.

Mr. Speaker, the last item I would ask the Majority Leader about is, as the gentleman knows, the ethics process in the House is essentially at a standstill. The gentleman has made that observation, obviously; and we have made that observation as well. Efforts to move the ethics process forward have failed so far, both in committee and on the floor, when virtually all of the Members on the gentleman's side of the aisle, now twice, have voted to table motions that would have provided for the appointment of a bipartisan task force to make recommendations to restore public confidence in the ethics process.

As the gentleman knows, the gentleman from Maryland (Mr. CARDIN), he was sitting to my left here, although he is now to my right; maybe he is running for office and wants to position himself; but the gentleman from Maryland (Mr. CARDIN) and Mr. Livingston performed an outstanding service for this House in coming together and adopting and presenting, proposing a bipartisan ethics process. We had that in place, as the gentleman knows, and it was changed, we believe, in a partisan fashion.

We oppose that change, as the gentleman knows, as does the former chairman of the Committee on Standards of Official Conduct, the gentleman from Colorado (Mr. HEFLEY). He and the gentleman from West Virginia (Mr. MOLLOHAN) have a bill, and that bipartisan resolution has now 207 cosponsors, and that would simply return the ethics rules to where they were, adopted bipartisanly, proposed bipartisanly by the Livingston-Cardin Committee, and it would return to a place where we believe the Committee on Standards of Official Conduct would not be at impasse.

We are also concerned about, as the gentleman knows, the chairman's proposition that we have a partisan division now of the ethics staff, which heretofore has been a bipartisan, I might even say nonpartisan, staff.

I would respectfully inquire, given that background, which the gentleman knows, of course, if and when we might see House Joint Resolution 131 on the floor. As I say, it has 207 cosponsors. It reflects the bipartisan agreement of the Livingston-Cardin committee and the bipartisan vote of this House some years ago in adopting the Livingston-Cardin option.

In the alternative, of course, when we might find an opportunity to support a bipartisan commission that could again look at this and try to get us off the dime.

I know I have mentioned a number of points, Mr. Leader, but I know that the gentleman believes it is important personally and institutionally. I have worked with the gentleman institutionally. We want to see this institution not mired in ethical questions of our side or of the gentleman's side. I think that either direction might get us there.

Mr. Speaker, I ask the Leader respectfully if he thinks that we might proceed in either direction, or perhaps both, and I yield to my friend.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding.

This is a very, very important issue that upholds the integrity of the House, that has to do with the image of the House in making sure that the House can enforce its own rules in a bipartisan way. I would just remind the gentleman, with all the work that the gentleman from Maryland (Mr. CARDIN) and Mr. Livingston did, which is excellent work, unfortunately, we cannot anticipate unintended consequences;

and once we start implementing that wonderful work, we find out that there are some flaws that need to be corrected.

The Speaker of the House looked at the last few years and decided that the rules allowed the use of the Committee on Standards of Official Conduct for partisan purposes, and its ability to act in a bipartisan way was seriously hindered. Most importantly, there were some due-process issues to protect Members of their due-process rights.

I will give my colleagues one example. The committee, on its own, decided to change the way they operated from the past. In the past, when the committee wanted to warn a Member about certain actions that were not in violation of the rules, they used to send a private letter to that Member. This committee and the last committee had decided on their own that, without consulting with the affected Member, to send a public letter and release the underlying documents to support their position, without the opportunity for a Member to face the committee and discuss those letters of warning, the Speaker felt very strongly that that undermines the rights of every Member, both Democrat and Republican, to due process.

The Speaker, in his office, looked at the standing rules of the 108th Congress in this regard and felt that some minor changes needed to be made; one, to protect the committee from being politicized; and, two, to protect Members' rights of due process. That suggestion by the Speaker, as the gentleman knows, was brought to this House and debated extensively on this House floor, and those amendments to the rules were passed by the entire House, with some nay votes, I understand.

I think it is unfortunate that we have found ourselves in this position, particularly when the Speaker was trying to protect the rights of the Members and certainly, more importantly, protect the integrity of the institution that we have reached this point. I am advised through the Speaker that the chairman of the Committee on Standards of Official Conduct is working with his Ranking Member, and I would hope that they would come to some sort of agreement in how we get past this impasse. Otherwise, the rights of Members will not be protected, and I find that extremely unfortunate.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the Leader for his thoughtful response. We have a difference of view on the change that was made from the Livingston-Cardin and House-adopted ethics rules which provided for an investigation of any Member to go forward unless a majority of the committee disposed of it. That meant, as the gentleman knows, that it would have to be bipartisan, because the committee is equally divided, so we would have to have at least one other Member, assuming one party was united on either side, one other Member of the other party to join in the disposition of a case. And if that disposition did not occur, an investigation would go forward.

Unfortunately, it is our perception, I say to the gentleman, that what the Speaker, because the gentleman said the Speaker wanted to protect the Members, what the Speaker has done from our perspective and, we think, from the perspective of many is created a process where on the inaction of the committee, based upon a tie vote so that a partisan group can stop an investigation, that the investigation will thereby be dismissed. So it turned the process 180 degrees, from having a bipartisan vote to dismiss to now having a partisan vote or a bipartisan vote necessary to proceed.

We believe that undermines the protection of the institution. We believe that that was not necessary in order to protect individuals and Members, which we think is an appropriate due-process protection.

□ 1600

Mr. DELAY. Will the gentleman yield?

Mr. HOYER. I certainly will, but let me make one additional point. Every previous change that I know of, and you and I have been here about the same time. I have been here perhaps a couple of years longer than you. Every change that I know of in the ethics rules have been affected by a bipartisan agreement until this one. There were only a few votes, I think we were almost unanimous on our side, which is not unusual, which is why the ethics rules has historically been separate and apart, perhaps in the rules package, but agreed to in a bipartisan fashion. And that is my concern.

Mr. DELAY. Will the gentleman yield?

Mr. HOYER. And I will be glad to yield my friend.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman's concerns. The gentleman has raised two issues: one is process and one is substance. On the process side, the gentleman is correct. And the gentleman would have to ask the Speaker about the process of bringing the rules to the floor in a bipartisan way. And I do not want to second-guess the Speaker, and the gentleman may well have a good argument on process.

But in the substance, the gentleman is correct. And I hope all Members are watching this because they need to consider this very strongly, that the gentleman cannot have it both ways. The gentleman wants a bipartisan process. The Speaker was bringing a bipartisan process, which means that in order to proceed to an investigative subcommittee you would have to have a majority vote, which would be bipartisan, a bipartisan vote to proceed to the investigative committee.

What some partisans had found, that if there was no agreement and charges brought against a Member, the Member would be hung out to dry. There would be no action, or there could be automatic action without a majority vote of the committee. That is the problem. That is what allows people to use it for partisan politics is that if one side or the other decides to deadlock the ethics committee, then the Member that has been charged can be held out and held up for many days, if not months, before a resolution of that charge comes.

The Speaker came up with a way to make sure that the committee is bipartisan because it requires a bipartisan vote to move forward.

The gentleman is suggesting that he would like to change, for the House and the rights of the Members, something that is so different than the rules of procedures in courts of law. If a grand jury is deadlocked in an indictment, there is no process that goes forward. If there is a full jury in a trial that is deadlocked, there is no process that goes forward. It has to be clear, without a reasonable doubt, with no reasonable doubt that the offense is right and needs to proceed. And that is why the Speaker created a bipartisan process for that to proceed. And it can work for both sides politically. It can work for Democrats as well as Republicans. And that is why I say the Speaker was trying and worked very hard to protect the rights of the accused, and more important than that, the rights of each and every Member of this House.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank again the gentleman for his thoughtful remarks. We see it differently, Mr. Leader. What we have created is the ability of both sides to stop investigations in their tracks. Both sides. Our side, if we block up, and our five say you are not going to investigate STENY HOYER, they can do it. Formerly they could not do that. And I believe your analogy is not apt, and I want to tell you why I think so, Mr. Leader.

The investigation is the gathering of facts, not the charging, not the finding of involvement. We do not use the term ''guilt,'' but the finding of involvement. It is an investigation to gather the facts from which the decision-makers, whether it be a grand jury or a petit jury, whether it be a judge or whether it be a prosecutor who determines whether to bring an indictment. Once those decision-makers have the facts, they can then make a rational decision, we hope.

What we have done, however, in changing the rules, which were adopted in a bipartisan fashion, is to allow either side to preclude the investigator from gathering the facts. That is as if we could preclude the police or the FBI or others from gathering facts that they would then, in turn, submit to a decision-maker, whether a grand jury to bring an indictment, a prosecutor to bring a charge, a petit jury to bring a conviction. I think that is inaccurate

Mr. DELAY. Will the gentleman yield?

Mr. HOYER. I certainly will yield to the leader, but before I do, do you see my point, Mr. Leader? Either one of us could protect ourselves. Either one of us, your side could protect yourselves by your five holding firm. Our side could protect ourselves by holding firm. That may protect us individually, but our position is it does not protect the institution, and that is what our concern is. I yield to my friend.

Mr. DELAY. If the gentleman will yield, the gentleman has made my point. Under the old rules, both sides could protect themselves.

Mr. HOYER. No, sir. Reclaiming my time, Mr. Leader.

Mr. DELAY. If the gentleman is not going to let me respond and interrupt me, then this colloquy can end.

Mr. HOYER. I want to apologize to the gentleman.

Mr. DELAY. Thank you. I appreciate that.

Mr. HOYER. I will yield back to him.

Mr. DELAY. As I was saying before I was interrupted, and I appreciate the gentleman yielding, the point is that both sides, in the old rules, both sides could shut the process down. The difference is, and it is a huge difference, the Members would be hanging out there and with no resolution.

And the gentleman is incorrect and misrepresents the process. The process starts with the ranking member and the chairman looking at the facts as presented to them by the person charging the Member. And then they decide whether to submit a recommendation to the full committee to proceed further and what action should be taken. So the facts the gentleman is talking about start with the ranking member and the chairman. Then a recommendation is submitted, just like a DA would submit a recommendation to a grand jury. And this is the grand jury process, to the committee, and the committee makes a decision whether they go forward.

Now, what happens in practice is, if that Member that has been charged receives from the committee that they are moving towards an investigative subcommittee, that is a huge hit on that Member, whether he is guilty or not. The press run with it and all kinds of things happen, as the gentleman perfectly knows. So that step to go to an investigative subcommittee is a very, very important step. And that is why the Speaker thought it was really important that a bipartisan vote be made in order to get to that step. It starts with his own ranking member making a decision, in concert, one vote to one vote, with the chairman, whether to submit the recommendation to the committee to proceed. And that is where the gentleman's concerns can be taken care of as to whether it is going to be blocked one way or another.

Then once they have made that recommendation, if they make a strong recommendation to proceed to an investigative subcommittee, I guarantee you, because you have a Republican chairman and a Democrat ranking member, the committee is going to follow their recommendation more times than not, and you will have a bipartisan, and in many cases, a unanimous vote to proceed to the next step.

The problem is, and it is a real problem that was used, where you come to a deadlock, then there is no resolution for the Member that has been charged. And the Speaker felt very strongly that that undermines the rights of every Member of this House.

Mr. HOYER. Mr. Speaker, reclaiming my time.

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

Mr. HOYER. I will be glad to yield to the gentleman from Maryland.

Mr. CARDIN. Mr. Speaker, let me thank the distinguished whip for yielding. And I have listened to this colloquy. And let me try to add a little bit to it, if I might.

First, I appreciate the leader's acknowledgment on process because the process is very important. I think the debate that we are having on the floor should have been had prior to the rule being brought under a very partisan environment for passage on the first day of session. I think if we would have had a chance, Democrats and Republicans, to review the rules changes, some of the problems that are now being brought out by these rules changes would have been understood.

So let me get to the policy issue that the leader brings up. And that is, yes, the chairman and ranking member can proceed to bring a matter before the full committee. But they do not have the investigative power in order to understand what is involved in the particular matter.

I served on the Ethics Committee for over 6 years, during some very difficult times, including the bank issues, including a charge against the Speaker of the House. And I can tell you this, that if we would have had a 45-day deadline considering an investigation of this matter, there would have been no way that we could have gotten the necessary votes to proceed.

In my entire time on the Ethics Committee we never had a partisan division. We always were able to work out our issues. It was not easy. It took time. We had to sit down and listen to each other, get the facts.

In reality, when you look at the rules that we are bound by and the facts, generally you will reach consensus and agreement within the Ethics Committee, and that is exactly what happens. But if the clock is running and there are only 45 days, and after that time there is an automatic dismissal, and that is what is in these rules now, it encourages a partisan division. It works counterintuitive to trying to work out what a consensus would bring out which is in the best interest of the institution. And I regret we did not have the opportunity to debate that during the process of the adoption of the rules.

It is interesting to point out that the investigation and the charges that were held against Speaker Gingrich brought about a lot of controversy on this floor. And the majority leader and the minority leader at that time recognized that the only way that we could resolve rules changes was to set up a bipartisan task force, and that is when Mr. Livingston and myself were the cochairs. And we listened to the debate. And due process for the Member was a very important consideration. And we did change the rules in order to provide for that, but we did it in a bipartisan deliberation, and that was missing this time. And I regret that.

Mr. DELAY. Will the gentleman yield?

Mr. HOYER. Mr. Speaker, I would reclaim my time and certainly yield to the leader.

Mr. DELAY. Mr. Speaker, I appreciate the comments by the gentleman who worked so hard on that bipartisan ethics reform taskforce that made recommendations to the House. And I appreciate that the gentleman is trying to protect those rules that he worked on.

But I remind the gentleman that when those rules were voted on, both gentlemen from Maryland voted against the rules they are trying to protect today. And then I might say your comments are well taken. The length of time is a problem. We have recognized that is a problem and I am told, I have not talked to the ethics chairman, but I am told through the Speaker that the ethics chairman has offered to negotiate the time problem with the ranking member. I do not know what the result of that has been, but I know that the Speaker has been informed by the chairman that he is more than willing to work on those issues, and I know the Speaker told me that he is open to fixing that time problem that the gentleman brings up and is concerned about.

Mr. CARDIN. Would the gentleman yield?

Mr. HOYER. Mr. Speaker, reclaiming my time, just for 1 minute.

Mr. CARDIN. Very briefly?

Mr. HOYER. Very briefly.

Mr. CARDIN. Let me just put out that when that issue was before the House, the former rules changes, we added a 180-day automatic dismissal that was rejected in a bipartisan vote by this body, just to point out to the distinguished leader.

Mr. DELAY. If the gentleman would yield, I appreciate that.

Mr. HOYER. I would be glad to yield to the leader.

Mr. DELAY. I yield back.

Mr. HOYER. Mr. Leader, we obviously have a disagreement in the perceptions as to what the rule does and does not do. I think both you and I are very concerned about the reputation and integrity of this House. I think you share that view and I share that view. It is my suggestion that resolving this in a way that is bipartisan will be productive for the House.

□ 1615

Mr. HEFLEY, the former chairman, I do not agree with Mr. HEFLEY on a lot of things, but I do agree with his perception of how we protect the integrity of the House. There may be people on my side of the aisle who agree with your perception and not mine. I understand that. The fact is, though, that it would be in the best interest of this House and this country for us to resolve these matters in a bipartisan way either through, as our leader has proposed, a commission to be a joint commission equally divided, as was the Livingston-Cardin commission, or, in the alternative, to consider H.R. 131.

The leader is absolutely right, and I made that aside, as you recall. We did vote against the rules package, but we had agreed to the components, and there was no controversy about the ethics component in the rules package. There were other things with which we disagreed, obviously, but that was an agreement, and it was reached in a bipartisan fashion.

This was not reached in a bipartisan fashion. And, yes, as both parties usually did, I can remember, it is getting more difficult to remember, but I can remember when we were in charge and your side used to vote unanimously against our rules package and we pretty much do the same because we have some disagreements. But there was agreement on the rules package as it related to the Committee on Standards of Official Conduct, and the reason for that is because both sides felt it to be very important.

Mr. DELAY. If the gentleman would yield.

I have to remind the gentleman, and I know going back to 1997 is very difficult, but this was not part of the rules package. This was voted on September 18, 1997, and it was on the recommendations for reforming the Committee on Standards of Official Conduct, and the gentleman that worked on the recommendation and the gentleman speaking voted against the recommendations, not on the House rules package.

My point, and I do not want to belabor that for the gentleman, I think it is very important that if the gentleman is protecting a package and a rules ethics reform that he voted against, I think that is one thing. But the other thing is we are working in a bipartisan way, I hope. The chairman and ranking member are dealing with this. A commission would just open up the whole recommendations that the gentleman from Maryland worked on and the gentleman from Louisiana worked on.

I do not think we need a complete overhaul of the ethics process, but there are certain problems that were found in practice that the Speaker felt needed to be done in order to protect the Members. And I have got to tell you, the Members on your side of the aisle as well as my side of the aisle better think about this very seriously because we do want to protect the integrity of the institution. But, as important as that is, we also want to protect the rights of the Members.

Mr. HOYER. Reclaiming my time, I think we both agree on that.

The gentleman from Maryland (Mr. CARDIN) wanted to say something, but I wanted to say you were right on the process. I was incorrect on the process. It was a separate vote on a separate package, and you are right that I and the gentleman from Maryland (Mr. CARDIN) and others voted against it. It was not on these provisions as you know because a change was made, not in a partisan sense, according to the gentleman from Maryland (Mr. CARDIN).

Mr. Speaker, I yield to the gentleman from Maryland (Mr. CARDIN) to explain his perception and recollection of the process.

Mr. CARDIN. Just to correct the record, and the leader is correct. We did vote against the package. The package was developed in a very bipartisan manner through the task force. There were some votes that took place on the floor of the House that were recommended against by the task force that changed some of the recommendations, and we had a motion to recommit to try to clarify that.

The gentleman is correct on the final vote, but the package itself was very much developed in a bipartisan manner through the task force in a way that it should have been done, contrary to the process that was used on this rules package.

Mr. HOYER. Reclaiming my time, Mr. Leader, I thank you for taking the time. I know you did not have to, and you have been considerate of this discussion because you and I know it is an important discussion. Because it is an important discussion, I would hope that we could move forward to try to get us off this impasse that we have for whatever reasons. And whatever is right or wrong, it needs to be resolved.

There are two suggestions here of how to resolve it. There may be other ways to resolve it. But I would hope that in the coming days we could move towards, in a bipartisan fashion, move towards resolving this issue.

ADJOURNMENT TO MONDAY, APRIL 18, 2005

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 2 p.m. on Monday next.

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

There was no objection.

HOUR OF MEETING ON TUESDAY, APRIL 19, 2005

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, April 18, 2005, that it adjourn to meet at 12:30 p.m. on Tuesday, April 19, 2005 for morning hour debates.

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

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

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

There was no objection.

APPOINTMENT OF MEMBER TO BOARD OF VISITORS TO THE UNITED STATES COAST GUARD ACADEMY

The SPEAKER pro tempore. Pursuant to 14 USC 194(a), and the order of the House of January 4, 2005, the Chair announces the Speaker's appointment of the following Member of the House to the Board of Visitors to the United States Coast Guard Academy:

Mr. SIMMONS of Connecticut.

APPOINTMENT OF MEMBER TO THE BOARD OF VISITORS TO THE UNITED STATES MERCHANT MARINE ACADEMY

The SPEAKER pro tempore. Pursuant to 46 USC 1295b(h), and the order of the House of January 4, 2005, the Chair announces the Speaker's appointment of the following Member of the House to the Board of Visitors to the United States Merchant Marine Academy:

Mr. KING of New York.

APPOINTMENT OF MEMBERS TO THE BOARD OF VISITORS TO THE UNITED STATES MILITARY ACADEMY

The SPEAKER pro tempore. Pursuant to 10 USC 4355(a), and the order of the House of January 4, 2005, the Chair announces the Speaker's appointment of the following Members of the House to the Board of Visitors to the United States Military Academy:

Mrs. KELLY of New York;

Mr. TAYLOR of North Carolina.

APPOINTMENT OF MEMBERS TO THE MEXICO-UNITED STATES INTERPARLIAMENTARY GROUP

The SPEAKER pro tempore. Pursuant to 22 USC 276h, and the order of the House of January 4, 2005, the Chair announces the Speaker's appointment of the following Members of the House to the Mexico-United States Interparliamentary Group:

Mr. KOLBE of Arizona, Chairman;

Ms. HARRIS of Florida, Vice Chairman.

PROPER TAX TREATMENT OF CERTAIN DISASTER MITIGATION PAYMENTS

Mr. FOLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1134) to amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate Amendment:

Strike out all after the enacting clause and insert:

SEC. 1. PROPER TAX TREATMENT OF CERTAIN DISASTER MITIGATION PAYMENTS.

(a) QUALIFIED DISASTER MITIGATION PAYMENTS EXCLUDED FROM GROSS INCOME.—

(1) IN GENERAL.—Section 139 of the Internal Revenue Code of 1986 (relating to disaster relief payments) is amended by adding at the end the following new subsections:

''(g) QUALIFIED DISASTER MITIGATION PAYMENTS.—

''(1) IN GENERAL.—Gross income shall not include any amount received as a qualified disaster mitigation payment.

''(2) QUALIFIED DISASTER MITIGATION PAYMENT DEFINED.—For purposes of this section, the term 'qualified disaster mitigation payment' means any amount which is paid pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as in effect on the date of the enactment of this subsection) or the National Flood Insurance Act (as in effect on such date) to or for the benefit of the owner of any property for hazard mitigation with respect to such property. Such term shall not include any amount received for the sale or disposition of any property.

''(3) NO INCREASE IN BASIS.—Notwithstanding any other provision of this subtitle, no increase in the basis or adjusted basis of any property shall result from any amount excluded under this subsection with respect to such property.

''(h) DENIAL OF DOUBLE BENEFIT.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed (to the person for whose benefit a qualified disaster relief payment or qualified disaster mitigation payment is made) for, or by reason of, any expenditure to the extent of the amount excluded under this section with respect to such expenditure.''.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (d) of section 139 of such Code is amended by striking ''a qualified disaster relief payment'' and inserting ''qualified disaster relief payments and qualified disaster mitigation payments''.

(B) Subsection (e) of section 139 of such Code is amended by striking ''and (f)'' and inserting '', (f), and (g)''.

(b) CERTAIN DISPOSITIONS OF PROPERTY UNDER HAZARD MITIGATION PROGRAMS TREATED AS INVOLUNTARY CONVERSIONS.—Section 1033 of such Code (relating to involuntary conversions) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) SALES OR EXCHANGES UNDER CERTAIN HAZARD MITIGATION PROGRAMS.—For purposes of this subtitle, if property is sold or otherwise transferred to the Federal Government, a State or local government, or an Indian tribal government to implement hazard mitigation under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as in effect on the date of the enactment of this subsection) or the National Flood Insurance Act (as in effect on such date), such sale or transfer shall be treated as an involuntary conversion to which this section applies.''.

(c) EFFECTIVE DATE.—

(1) QUALIFIED DISASTER MITIGATION PAYMENTS.—The amendments made by subsection (a) shall apply to amounts received before, on, or after the date of the enactment of this Act.

(2) DISPOSITIONS OF PROPERTY UNDER HAZARD MITIGATION PROGRAMS.—The amendments made by subsection (b) shall apply to sales or other dispositions before, on, or after the date of the enactment of this Act.

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

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

There was no objection.

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

Mr. CARDIN. Mr. Speaker, reserving the right to object, I do so not for the purposes of objecting but to give the gentleman from Florida (Mr. FOLEY) an opportunity to explain the legislation that is extremely important to people who have suffered disaster as a result of hurricanes in our country.

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

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

Mr. FOLEY. Mr. Speaker, I appreciate the gentleman for yielding and certainly for his help in supporting this important measure.

Mr. Speaker, I am pleased to call up H.R. 1134, as amended by the other body, and with the bill's many supporters urge its adoption.

I remind my colleagues that the House passed this bill by voice vote 1 month ago. It was a bipartisan effort. We worked with the administration to develop a bill that makes disaster mitigation grants tax free. The bill also extended tax-free treatment to outstanding grants, as the administration's budget clearly provided for.

The amendment gilds the lily by making the relief in outstanding grants more explicit. During the past month, there has been some discussion in the other body of raising taxes and of adding unrelated tax breaks. I am pleased and thrilled that neither of those ideas was added to the bill and that this amendment is acceptable.

As I said when the bill was considered on this floor on March 14, H.R. 1134 will make disaster mitigation grants attractive to those we want to help avoid loss of life and property. These grants have saved Americans $2.9 billion in property losses during the past 15 years. Passing this bill today will clarify a difficult tax issue just in time, and I must underline just in time, for our April 15 filing and help those Americans who are even now struggling with their tax returns. And I hope all here will join me in passing the bill.

Of course, I thank the chairman of the Committee on Ways and Means, the gentleman from California (Mr. THOMAS), and the ranking member, the gentleman from New York (Mr. RANGEL), for their quick consideration of this important bill and, of course, the gentleman from Maryland (Mr. CARDIN), a member of the committee, for his excellent work on this as well.

Mr. COLE of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. CARDIN. Further reserving the right to object, I yield to the gentleman from Oklahoma.

Mr. COLE of Oklahoma. Mr. Speaker, I thank the gentleman for yielding. It is very gracious of him.

Mr. Speaker, I come from a part of the country, Oklahoma, where disasters are not uncommon. Sometimes they are the awful man-made disasters of the Oklahoma City Bombing, something we will talk about next week, but more frequently they are the disasters associated with tornados.

In my home community in 1999 we had an F–5 tornado that destroyed in my community and the adjacent community 6,000 homes and killed 40 people. Four years later, another tornado, traveling almost in the identical path, destroyed another 500 homes and injured many people.

Each time we got superb help from the Federal Government and from FEMA, both in the immediate disaster and in the aftermath, to mitigate the consequences of future events of this type; and we were very, very grateful for that help as Americans.

It came then as an enormous surprise to the constituents that I represent years later that this help turned into potentially a taxable event. That is, there was talk at the Internal Revenue Service of going back, taking the grant and actually levying a tax on them years after they have been given.

I want to commend the gentleman from Florida (Mr. FOLEY), who has had similar circumstances dealing with hurricanes in his home State, for working with our delegation in Oklahoma on a bipartisan basis, the gentleman from Oklahoma (Mr. ISTOOK), the gentleman from Oklahoma (Mr. LUCAS), the gentleman from Oklahoma (Mr. SULLIVAN), the gentleman from Oklahoma (Mr. BOREN) and myself and for working across the aisle with our good friends who have this problem in common.

On this floor we sometimes do have partisan disagreements, but when the good of the country is at stake, it is amazing how often we do come together. And certainly we come together regardless of party to help people that have been hurt through no fault of their own in the course of disaster and to help them prepare so that those disasters never threaten their well-being again.

So I want to thank again my friend, the gentleman from Florida (Mr. FOLEY), for his outstanding work. I commend our colleagues in the Senate for working with him in getting this bill done just in time. Literally, I had a couple of town meetings last week when we were on break where I had constituents come and ask who had

benefited from these mitigation grants, would the taxation problem be taken care of? And at that time I could not actually assure that it would be.

A number of them filed extensions rather than turn their taxes in. They were not sure what their liability was going to be. If it were not for the action of the gentleman from Florida (Mr. FOLEY), if it were not for the action of the people on both sides of the aisle, if it were not for the action of the other body, they would potentially be facing a tax bill that they never anticipated.

Again, I want to thank the gentleman from Florida (Mr. FOLEY) for his extraordinary work in this regard. I want to tell him if he wants to run for office next time, come to Oklahoma. We remember our friends. And we appreciate very much his remarkable efforts.

I thank so much my good friend, the gentleman from Maryland (Mr. CARDIN).

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

Mr. CARDIN. Further reserving the right to object, I yield to the gentleman from Florida.

Mr. FOLEY. Mr. Speaker, I certainly appreciate that invitation, but I am quite proud of serving Florida.

I think it is important to thank the gentleman from Louisiana (Mr. JINDAL) has been a prime sponsor, as have been Democrats and Republicans. That is one of the joys of the process when we actually get something done with bipartisan support.

I want to thank the staff on the Committee on Ways and Means but specifically Elizabeth Nicholson from my staff, my deputy chief of staff who has labored very long, hard hours on trying to get this to fruition. We are here on the floor and I am very excited and pleased that we will be able to provide this relief for our taxpayers. And, of course, the gentleman from Oklahoma (Mr. COLE) clearly stated without their help and the entire delegation that this effort would have been for naught.

□ 1630

So we appreciate all involvement and all support.

Mr. CARDIN. Mr. Speaker, further reserving the right to object, I want to just conclude by acknowledging the work of the gentleman from Florida (Mr. FOLEY). He really does deserve the credit for being persistent to get this legislation passed prior to April 15.

I also want to thank the gentleman from California (Mr. THOMAS), our chairman, and the gentleman from New York (Mr. RANGEL), our ranking member, for arranging this process.

It has been a pleasure to work with the gentleman. As the gentleman knows the problems we have had in Maryland with Hurricane Isabel and the hardship that that caused, I got to see firsthand the damage and devastation to families in my own State. This bill will help. It has been my pleasure to join my colleague from Florida in sponsoring and supporting this legislation.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1134, the bill just passed.

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

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

CONGRESS AND THE JUDICIARY: RESTORING COMITY

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

Mr. SCHIFF. Mr. Speaker, 174 years ago, Supreme Court Justice John Marshall warned: ''The greatest scourge in angry heaven ever inflicted upon an ungrateful and a sinning people, was an ignorant, a corrupt, or a dependent judiciary.''

Despite Marshall's warning, quite remarkably, nearly 200 years later the very independence of the judiciary, a matter so fundamental to our separation of powers, is still a matter of contention for some, particularly in this Congress.

For 2 years in a row now, Chief Justice Rehnquist has used his year-end report to highlight the deteriorating relationship between the judicial branch and the legislative branch, the result of a recent systematic congressional attack on the independence of the judiciary. Since I arrived in Congress, I have been quite surprised by the dreadful state of relations between our branches and the absence of the comity that historically existed between the two.

The Federal caseload continues to rise at a record pace, reaching new levels. Courthouse funding is woefully inadequate, failing to meet the needs of our Federal courts in order to carry out their mission and to make necessary improvements in priority areas such as court security. Judicial confirmations continue to be mired in political brinksmanship. Judicial compensation has not kept pace with inflation and congressional inaction on an annual basis has led to delays in important adjustments, despite the President's admonition for Congress to act.

The House Committee on the Judiciary, on which I sit, has initiated investigations of judges charged with judicial misconduct, matters that were previously left to circuit judicial councils, and the word ''impeachment'' has been used quite loosely and frequently as a threat.

A few weeks ago, these threats reached a fever pitch with talk, from the highest leadership levels of this body, of intentions to ''look at an unaccountable, arrogant, out-of-control judiciary that thumbed their nose at Congress and the President'' and a warning that ''the time will come for the men responsible for this to answer for their behavior, but not today.''

The Congress has also renewed its appetite for legislation that would strip the Federal courts of jurisdiction on a piecemeal basis from areas in which some are not pleased with the results that have been reached from the courts, or in areas where some are worried about potential outcomes down the road.

We have considered one bill which would remove Federal court jurisdiction over issues concerning the free exercise or the establishment of religion or over marriage. Should any Federal judge take up any issue involving that, the free exercise or the establishment of religion, he is subject to impeachment under the bill.

We had another proposal to remove jurisdiction of the courts over the Ten Commandments, another over the Pledge of Allegiance, and yet another to remove jurisdiction over any issue affecting the acknowledgement of God as the sovereign source of law. Again, the penalty for a judge who inquires or exercises jurisdiction is impeachment, removal from office.

Perhaps we should simply remove the jurisdiction of the Federal courts over the entire first amendment and be done with it.

After moving to strip jurisdiction, we recently moved to provide jurisdiction, where the Federal courts should not have it, in the Schiavo matter; and the only common denominator seems to be the desire to obtain the preferred result from the bench, regardless of the constitutionally enshrined principles of the separation of powers and of federalism itself.

Congress has not stopped here, but has pursued proposals to split appellate court jurisdiction and even considered legislation that would decide for the judiciary what they may look at or include in their judicial opinions.

Does anyone in Congress believe that we can undermine the courts without belittling the Congress itself?

Some Supreme Court rulings, such as the decision with regard to the sentencing guidelines, remind us that

sometimes there will be judicial decisions that we believe are poorly reasoned and others we just do not like. However, efforts by the Congress to force the courts to look at our transient wishes, rather than the Constitution, would only serve to undermine the very institution in which we serve.

As a Member of Congress with a strong interest in improving the relationship between the legislative and judicial branches, I have formed, with the gentlewoman from Illinois (Mrs. BIGGERT), a bipartisan congressional caucus dedicated to this goal. Our caucus consists of some 30 Members from both sides of the aisle, and I encourage my colleagues who share our goal to join our efforts to restore the historic comity between our two branches.

One hundred and seventy-four years ago, Mr. Speaker, Chief Justice Marshall warned of the great scourge of a dependent judiciary to be inflicted upon an ungrateful and sinning people. Let us not forget his wise admonition.

IN SUPPORT OF LIEUTENANT PANTANO

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

Mr. JONES of North Carolina. Mr. Speaker, I have spoken several times about Second Lieutenant Ilario Pantano, a Marine who served our Nation bravely in both Gulf Wars and who now stands accused of murder for defending himself and this country.

During his service in Iraq last year, Lieutenant Pantano was faced with a very difficult situation that caused him to make a split-second decision to defend his life. He felt threatened by the actions of two insurgents under his watch; and in an act of self-defense, he had to resort to force; 2½ months later, a sergeant under his command, who never saw the shooting, accused him of murder. Lieutenant Pantano now faces two counts of murder.

Mr. Speaker, what is happening to this young man is an injustice. Lieutenant Pantano has served this Nation with great honor. My personal experiences with him and his family convince me that he is a dedicated family man and a man who loves his corps and his country.

But I am not the only one who believes he is innocent. Yesterday, I read excerpts of pieces from the Washington Times and respected journalist Mona Charen defending Lieutenant Pantano.

I have received letters and e-mails from Vietnam veterans who sympathize with him and ask that I do something to help him. They know what it is like to be in battle with an unconventional enemy. One second can make the difference between life and death.

I have read excerpts from his combat fitness report in which his superiors praised his leadership and talent, even recommended him for promotion.

Mr. Speaker, Lieutenant Pantano was, by all accounts, an exceptional Marine.

Yesterday, Lieutenant Pantano and his attorneys waived his right to have an article 32 hearing and had decided that they want to go straight to trial. They are so convinced that he will be proven innocent that they want to speed the process along.

In a letter yesterday, Lieutenant Pantano's mother wrote: ''My son, our family, and millions of concerned citizens, Marines and soldiers were assured that the article 32 pretrial hearing would bring everything out in the wash, and we have been patient with a process that has been grueling for my son's family. The problem is that if the government is the machine and my son is the laundry, they are not adding any water.''

Thus far, the prosecution has not presented the witnesses and the evidence that they claim to have, and Lieutenant Pantano had no reason to believe that they would do so at the hearing. No such evidence appears to exist.

Mr. Speaker, I have put in a resolution, House Resolution 167, to support Lieutenant Pantano as he faces trial. I hope that my colleagues in the House will take some time to read my resolution, look into this situation for themselves. Lieutenant Pantano's mother also has a Web site that I encourage people to visit. The address is www.defendthedefenders.org.

Mr. Speaker, as I close, I ask the good Lord in heaven to please bless our men and women in uniform whether in Iraq or Afghanistan, to bless them and their families across this country, and also I ask the good Lord to please be with the family of Lieutenant Pantano and that I believe he will be exonerated, and he is a great man, a great Marine; and God bless America.

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

(Mr. BROWN of Ohio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

EXCHANGE OF SPECIAL ORDER TIME

Mr. MCDERMOTT. Mr. Speaker, I ask unanimous consent to address the House and take the time of the gentleman from Ohio (Mr. BROWN).

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

There was no objection.

BANKRUPTCY REFORM LEGISLATION

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

Mr. MCDERMOTT. Mr. Speaker, the word ''bankrupt'' as we know it today comes from the 16th century Italian banca rotta, which literally means broken bench. It refers to a legend that said when a money trader became insolvent, the bench or table which he used in the market was literally broken. The Latin root of the word includes ''corrupt'' in the meaning.

The bankruptcy bill that the Republicans forced on the American people in this House today is as broken a bench and as corrupt a piece of legislation as I have seen in this House.

Republicans are providing nothing less than money tribute of, by and for credit card companies; and just like the tribute demanded by the corrupt leaders in ancient times, this money will be extracted from the American people, even if it means children will go hungry.

Do not let the Republicans mislead my colleagues for one money-grubbing, greed-pandering minute. The Republican bill threatens single mothers and children who rely on child support from a spouse who files for bankruptcy.

Credit card companies demanded, and the Republicans caved in, on a provision that says credit card debt will survive bankruptcy and compete on an even basis with kids and moms for the limited dollars left in bankruptcy. One of the Republican Members said, well, we have to do that. What if all the money went to the mothers and kids? Well, now, what kind of family values are those? They ought to go to the children and the mothers.

The Republicans shout family values, but they just sold the women and the children down the river. Single mothers and children will have to fight the credit card companies in court for whatever meager assets remain after bankruptcy. It will not be any just division. They will have to go in and arm wrestle with the credit card companies to make sure that they get food and shelter for their kids.

One credit card company television commercial says, ''Don't leave home without it.'' Maybe they can make a new commercial that says: You might not have home, or food, with it.

Protecting children is more important than satisfying the insatiable greed of credit card companies. Any person who supports this bill opposes our responsibility as a Congress and as a Nation to protect our most vulnerable population, the children.

The line must be drawn. The vote should have been the other way in this House, but the American people must know who is willing to feed corporate greed ahead of feeding vulnerable kids.

My distinguished colleague, the gentlewoman from New York (Mrs. MALONEY), had proposed an amendment which would ensure that the debtors make child support payments ahead of credit card payments. The Republicans would not even allow it to be heard in this House. They had their marching orders, and these orders come directly from the credit companies.

Banca rotta, the bench is corrupt, the bench is broken.

We are a Nation of laws, but we are also a Nation that legislates on a foundation of religious and spiritual values.

□ 1645

Nothing in Christianity or Judaism or Islam supports the concept of usury against the defenseless, but that is exactly what this corrupt, broken bench does: It pits women and children against credit card companies. Corporate lawyers will get their money regardless of whether women and children get their dinner. Shame on the credit card companies for demanding this, and shame on the Republican majority for caving in. Republicans are enslaving the American people to credit card companies.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FORTENBERRY). The Chair will remind all persons in the gallery that they are here as guests of the House and that any manifestation of approval or disapproval of proceedings or other audible conversation is in violation of the rules of the House.

ORDER OF BUSINESS

Mr. PRICE of Georgia. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

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

There was no objection.

AMERICA NEEDS COMPREHENSIVE ENERGY POLICY

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

Mr. PRICE of Georgia. Mr. Speaker, tomorrow is April 15, an important day. It is tax day. Today, millions of Americans are in the process of filing their taxes. When all is said and done, many will get a refund from Uncle Sam. Hopefully, these refunds will not be needed to pay to fill up their gas tank.

At every town hall meeting I have held, the price of gasoline has been a significant issue. Last weekend when I was at home in my district, I saw gas costing $2.15 and $2.24 and even higher per gallon. The prices do not seem to be coming down any time soon.

If we had a comprehensive energy plan in place, we might not have seen these massive price increases. The time to act is now.

What are the facts? Well, since 2001, the average price of gasoline increased 86 percent, from $1.23 to $2.29 a gallon. U.S. imports of oil over that period of time have increased by more than 10 percent, and the price of a barrel of oil has more than doubled from just over $23 to over $50 a barrel today.

Many remember the early 1970s when we sat in lines to get our gasoline, and those lines often stretched for blocks and blocks. That gave us a lot of time to think, and most of us vowed that our Nation should never be dependent on foreign oil again.

Today, however, the sad truth is we are actually more dependent on foreign oil than we were then. So, as tax day arrives, let us be certain that we adopt an energy policy so comprehensive that future tax refunds will do more than just get spent on a tank of gas.

HONORING JOSIE GRAY BAIN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WATSON) is recognized for 5 minutes.

Ms. WATSON. Mr. Speaker, I rise to honor the life of Josie Gray Bain, a brilliant woman who was a dedicated wife, mother, and pioneer educator, who I had the distinct honor to work with closely when I served on the Los Angeles School Board.

Josie Gray Bain was born in Atlanta, Georgia, where she attended elementary and high school. Shortly after graduation from high school, she met and married Reverend John C. Bain of Los Angeles. In the fall of 1930, Josie Bain relocated to Spring Hill, Tennessee, where she and her husband began their first ministerial appointment. Their son, John David, was born soon thereafter. Both Josie and her husband enrolled at Drake University, where Josie received her B.S. degree with honors and continued to do graduate work there.

In 1942, Josie Bain moved with her husband to Los Angeles, California. She completed her graduate studies at California State College in Los Angeles, Immaculate Heart College, and the University of Southern California.

In 1948, she began her career in education with the Los Angeles Unified School District as an elementary schoolteacher at Marianna Avenue Elementary School. After teaching several years, she was promoted to positions of ever-increasing responsibility. Josie ended her brilliant career as Associate Superintendent of Instruction, the first African American in the history of the Los Angeles Unified School District to be appointed to the position.

Josie Bain was an active member of several professional and civic organizations, including Delta Kappa Gamma, Education Sorority; Delta Sigma Theta, Education Sorority; National Council of Negro Women; the Urban League; United Methodist Women; and the National Association for the Advancement of Colored People. She founded and served as president of the Interchange For Community Action, which provided scholarships for many disadvantaged minorities for more than two decades.

Josie Bain devoted her life to her family, God, community, and her church. She lived her life with style, grace, integrity, and vitality. Her dedication to helping children was recognized by all those whom she touched, and her accomplishments were evidenced by numerous awards and honors bestowed upon her throughout her life.

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

(Mr. GUTKNECHT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

REAUTHORIZE AMTRAK

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. CORRINE BROWN) is recognized for 5 minutes.

Ms. CORRINE BROWN of Florida. Mr. Speaker, today we introduced a bipartisan Amtrak reauthorization bill that will truly serve America's traveling public. I want to thank the gentleman from Alaska (Chairman YOUNG), the gentleman from Ohio (Mr. LATOURETTE), and the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), for joining me in this effort. This is truly a bipartisan effort and shows the strong support Amtrak has within the Committee on Transportation and Infrastructure and the Congress.

The current funding issues concerning Amtrak brings up a fundamental question of where this Nation stands on public transportation. We have an opportunity to improve a system that serves our need for passenger rail service, or we can just let it fall apart and leave this country's travelers and businesses with absolutely no alternative form of public transportation.

Without the funding Amtrak needs to keep operational, we will soon see people that rely on Amtrak to get to work each day waiting for a train that is not coming. We continue to subsidize highways and aviation, but when it comes to passenger rail service we refuse to provide the money Amtrak needs to survive.

This issue is bigger than just transportation. This is about safety and national security. Not only should we be giving Amtrak the money it needs to continue to provide service, we should be providing security money to upgrade their tracks and improve safety and security measures in the entire rail system.

Once again, we see the Bush administration paying for its failed policy by cutting funds to public service and jeopardizing more American jobs. This administration sees nothing wrong with taking money from the hard-working Amtrak employees who work day and night to provide top-quality service to their passengers. These folks are trying to make a living for their families, and they do not deserve such

shabby treatment from this administration.

We spend $1 billion a week in Iraq, $4 billion a month, but this administration zeros out funding for Amtrak. Just one week's investment in Iraq would significantly improve passenger rail for the entire country for an entire year.

I just want someone to explain to the American public why investing in transportation in Iraq is so much more important than investing in passenger rail service right here in the U.S.

Mr. Speaker, it is time for this administration to step up to the plate and make a decision about Amtrak based on what is in the best interest for the traveling public, not what is best for the right ring or the Republican Party or the European counters over at OMB.

Today in America, we have 50 million people without health care. We have the highest trade deficit in the history of this country. We have a $477 billion Federal deficit. We have a $375 billion shortfall in transportation funding, and we still do not know what happened to the weapons of mass destruction or who at the White House outed one of the CIA agents. Yet this President's top priority is bankrupting Amtrak. I do not understand that.

I represent central Florida, which depends on tourists for its economic development; and we need people to be able to get to our State to enjoy it. Ever since September 11, more and more people are turning from the airlines to Amtrak, and they deserve safe and dependable services.

This is just one example of Amtrak's impact on my State. Amtrak runs four long-distance trains from Florida, employs 990 residents with wages totaling over $43 million, and purchased over $13 million in goods and services last year alone, and they are doing the same thing in every State they run in.

Some people think the solution to the problem is to privatize the system. If we privatize, we will see the same thing we saw when we deregulated the airline industry.

Shortly after 9/11, I was in New York when the plane leaving JFK Airport crashed immediately after takeoff. I, along with many of my colleagues in both the House and Senate, took Amtrak back to Washington. I realized once again just how important Amtrak is to the American people and how important it is for this Nation to have more than one form of transportation.

I encourage everyone that uses Amtrak to get to work or to travel to call their Congressman or Senator and let them know how important Amtrak is to them. This is not about fiscal policy. This is about providing a safe and reliable public transportation system that the citizens of this Nation need and deserve.

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

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ENERGY POLICY DESPERATELY NEEDED

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I heard a colleague just a few moments ago refer to tomorrow being the day that is known as the filing day for our taxes. Some might call it a rainy day in April. The gentleman is so right. It is the day that so many Americans are filing their returns and are hoping to pay for the governance of this Nation. Many Americans in this time frame are facing some very difficult times.

Mr. Speaker, I would like to put before this body a challenge that I think is enormously important. What do you say to Americans who are filing their tax forms and who are facing $2 plus and growing price per gallon on gas? This is an indistinguishable amount, meaning you can be a multi-billionaire or a person who is simply trying to make ends meet, keeping the doors open, paying the rent, providing for four or five members of their family, working in a blue collar or hourly job, and in order to get to a job across town, across county, or into the next State, we are asking Americans to pay $2 plus per gallon for gas.

Internationally, gasoline is quite high. The United States has always had the opportunity to experience a better quality of life. This is a hardship on Americans. And as the committee of jurisdiction has marked up energy legislation, I frankly believe it is not soon enough and it will not move soon enough. I think it is important for the President of the United States to announce an energy relief policy that deals specifically with the high price of gas for those who are now suffering under that burden.

I do not want to leave industry out. As I have traveled through the airports, I am delighted to see that the numbers have gone up after 9/11. But, frankly, representing Houston's Intercontinental Airport and the fourth largest city in the Nation, realizing the traveling public has many needs to travel by airplane, the cost of jet fuel is killing our airline industry. In fact, my hometown airline, their employees have taken an actual cut in salary so the airline can survive. But as they have done that, the jet fuel prices continue to go up and up and up.

□ 1700

Any legislation that we pass next week or the following week will not address that crisis, so I call upon the administration to acknowledge this as an economic crisis and establish some immediate relief, whether or not it is going into those petroleum reserves on a temporary basis, a 60-day basis, to bring some relief because there is going to be a point when those airlines that equate to a sizable proportion of our GNP are going to collapse under the burden of jet fuel cost; and there will be a time when whole communities, urban areas and rural areas, will have a population of employees who on an hourly basis are working and cannot afford to get to work.

That is why, Mr. Speaker, I rise today to talk about and to add to the discussion what I think was an unfortunate legislative initiative that was passed today. We all would hope to run away from bankruptcy. That is not the direction that the American people desire to go. I find the American people innovative, hardworking, desirous of a better quality of life, desirous of giving their children a better quality of life.

And so I am offended by a bankruptcy bill that suggests that we represent a bunch of ne'er-do-wells and those who are running away from their legitimate debts. That is what we did today. Frankly, we passed a bankruptcy bill, Mr. Speaker, that puts in place a provision that clearly is not needed. We have a bankruptcy code and a series of bankruptcy judges and each and every day they make a decision when a frivolous litigant comes through the door and looks in all the raging color, this is certainly a person who is just simply trying to avoid paying their debts, has the resources, and that person, if you will, is dismissed or their case is not allowed to proceed in the bankruptcy court.

Now, in the backdrop of a number of corporate filings of bankruptcy, my own constituent, Enron, that filed bankruptcy and put 4,000 people out of work, some of whom lost their lives because of the tragedy, when we allow all of these major corporations to file bankruptcy, now we are going to stand in the door of the courthouse and tell hardworking Americans and middle-class Americans, if you don't pass a litmus test, you get back out there and fall under the crunch and the concrete of your debts. If you have a medical emergency, if there is death in the family, if you have lost your job or if you happen to be active duty Reservists whose families have lost the income of that breadwinner, who now are in Iraq and Afghanistan not for 6 months but for 1 year or 2 years and some who are forced to re-enlist again because of the shortage of personnel, these individuals now will have to pass a means test in order to be able to file bankruptcy because they are burdened by the responsibilities that they cannot pay.

Mr. Speaker, we voted on a bankruptcy bill, and we defeated the motion to recommit that would help these Reservists. It is a shame on us and a shame on this House. Mr. President, I beg of you not to sign this bankruptcy bill until we take care of the active duty Reservists and National Guard. That is the least we can do for those who are offering their lives.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PRICE of Georgia). The Chair reminds Members to address their remarks to the Chair.

APPOINTMENT OF HON. TOM PRICE OF GEORGIA TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH APRIL 19, 2005

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

HOUSE OF REPRESENTATIVES,
Washington, DC, April 14, 2005.

I hereby appoint the Honorable TOM PRICE to act as Speaker pro tempore to sign enrolled bills and joint resolutions through April 19, 2005.

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

The SPEAKER pro tempore. Without objection, the appointment is approved.

There was no objection.

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

(Mr. DREIER 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 California (Mr. ROHRABACHER) is recognized for 5 minutes.

(Mr. ROHRABACHER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

30-SOMETHING WORKING GROUP

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Florida (Mr. MEEK) is recognized for 60 minutes as the designee of the minority leader.

Mr. MEEK of Florida. Mr. Speaker, it is once again a pleasure to address the House of Representatives and also to talk about a very important issue to all Americans, which is Social Security. I would also like to thank the Democratic leader for allowing the 30-something Working Group to come to the floor once again to talk about issues that are facing not only young Americans but Americans in general.

Through her leadership and through others that are in the Democratic Caucus, the Democratic whip, the gentleman from Maryland (Mr. HOYER); the chairman, the gentleman from New Jersey (Mr. MENENDEZ); and also the vice chairman, the gentleman from South Carolina (Mr. CLYBURN), we have been able to come to the floor to share facts, not fiction, to bring accuracy to the Social Security debate as it stands now.

First of all, Mr. Speaker, I would like to just share a few things as relates to Social Security. We encourage the Members to continue to keep an open mind. First of all, I want to commend Members on the Democratic side of the aisle for having so many town hall meetings, a number of town hall meetings, hundreds of town hall meetings in their own districts and that have traveled outside of their districts to share with Americans the truth about Social Security and how we protect Social Security and how we continue to have the benefit structure that so many, 48 million Americans, are celebrating now today.

I must also add that I would like to commend some of my Republican colleagues that have the courage to stand up to the forces of leadership, to say that they are willing to make sure that their constituents are able to celebrate and to be able to survive in a program that they have been promised that will be there for them in their time of retirement.

I would also like to thank those Members on both sides of the aisle who see the benefit of protecting Social Security, not coming up with a privatization scheme, not because someone said it is a way that we can be innovative, not subscribing to saying that there is some sort of Federal emergency as it relates to the protection of Social Security, not the fact that the President is flying around the country some 60 days burning Federal jet fuel at taxpayers' expense, higher than at any other time in the history of this country since Presidents have been flying, to persuade Americans that there is some Federal emergency. We will try to address that a little later. We are going to celebrate not only within the moment but within the future.

I want to just share a few things, Mr. Speaker, as it relates to how many Americans that are not only beneficiaries of Social Security but also Americans who look forward to benefiting from Social Security.

Social Security is the foundation of all retirement for the American worker. Like I mentioned earlier, 48 million Americans celebrate and take part in the benefits that Social Security has to provide. Retirees receiving Social Security benefits are 33 million. That is a great number of Americans that have served our country well. Seniors who live within the poverty line, 48 percent of those individuals, of the 48 million, receive those benefits. The average monthly benefit is $955. That is making ends meet for so many Americans, some 48 million Americans.

The size of the average benefit, like I mentioned, is $955; but the real issue is the fact that the benefits will be there for almost 50 years. Some may say 48, some may say 49, but for almost 50 years, the present benefit structure as we see it now for Social Security recipients, including those individuals that are receiving survivor benefits that I must add, Mr. Speaker, those survivor benefits is the legacy of the commitment that their parents made that have passed on, that have gone on to glory. The only thing that they were able to leave for their child are survivor benefits. And the benefits will be here until 2052; 2052, Mr. Speaker. That is not tomorrow. That is not next week. That is not even 2 years. 2052.

And so many of the individuals that are running around here saying that we need to call the fire department because Social Security is on fire are not really telling the truth. One may say that the administration has a plan or the majority side leadership has a plan for Social Security. That is also not true. One may say that the President, like I said, the administration, has a plan. That is not true. Is there posturing on the majority side about the fact that they are going to come up with a plan? Yes, there is some conversation going on, but Washington is known for conversation. There is nothing wrong with conversation as long as it is bipartisan. And that is not happening. Leadership is about a bipartisan dialogue to improve Social Security. So if it is going to be addressed in this Congress, for us to move in a productive way, we are going to have to work together. And there is no leadership from the majority side for us to work together.

Some may say, well, where is the Democratic plan? Well, I think the Democratic plan is celebrated by 48 million Americans today, not fiction, not something that may happen in the future; and in the 1980s it was a Democratic Congress that came together with Speaker Tip O'Neill and Ronald Reagan and saved Social Security. A supermajority of Democrats voted for it, and even the creation of it.

So when one starts to argue about, well, where is the Democratic plan, the Democratic plan is in the wallets of 48 million Americans. And those Americans that are walking around working now with a Social Security card can say, wow, I am glad we have Social Security in the way we have it. And for those retirees that take their card out with those digits on them, they can thank the leadership of the Democratic Congress when it was created and also the Democratic Congress that saved Social Security to make sure that every American can have the maximum amount of benefits possible to them to help that 48 percent of the 48 million Americans that without Social Security would be living in poverty, to help 33 million of those retirees that are now, this is fact, not fiction, able to receive Social Security because, let us say, for instance, in that 33 million Americans, I am sure, Mr. Speaker, a number of their companies have gone back on their commitment on retirement. But Social Security is there for them. For those individuals that have passed on and gone on to glory, they were able to leave legacy benefits for their children.

Let us talk a little bit about the private accounts, because I think it is important that we talk about the privatization scheme that some people in this

town have in store or would like to put forth to the American people. Before I get into that, I would also like to add, since we are talking about the positive points of Social Security, that Social Security is important to stabilize the American way of life. If we start having benefits cut back, especially in this era of no health care, I must add, one may want to talk about health care accounts or special savings accounts and all of those things that are talked about from time to time.

Forty-seven million Americans are working without health care. These are not individuals that are sitting at home cracking their toes, saying the job situation looks sad. These are individuals that go to work every day. So if we start getting along with our friends in Wall Street and saying we are going to have private accounts and we are going to shore up some more money for Wall Street, then that is a gamble that I am not willing to take.

On the majority side, they are talking about, we need to privatize these accounts. Let me tell you, it is going to make it harder for everyone to achieve financial security, and I do mean everyone. Not just Democrats, not just Republicans, not just independents, not just people of color, not just Asian Americans. Every American will suffer under it. The size of the benefit cuts proposed in the philosophy that the majority side has is 46 percent. The average reduction of benefits a retiree would see over their lifetime would be $152,000. The amount that Wall Street would profit from the private accounts would be $940 billion. That is the only real bright spot here for some. The issue as it relates to our risk as it relates to this risky plan for private accounts, $2 trillion. The amount of government tax on private accounts would be 80 percent.

If the Republican proposal to cut Social Security benefits were in place today, the average senior monthly benefit would be $516. This is very real, ladies and gentlemen. Remember, I said right now, as in the present, today. If we look at the clock right now, if we look at today's date right now, the average benefit is $955.

□ 1715

Under the proposed philosophy that the majority side has, it would be $516. That is not something to be proud of.

There are a lot of other things that were mentioned recently in the media, and we will talk a little bit about that. But as we start, as we continue to talk about the issue as it relates to the price tag of privatization, it is staggering. It is a lose-lose proposition, as presently presented, the philosophy that the President has. More than a 40 percent cut in benefits, adds nearly $5 trillion in additional debt over a 20-year period; 70 percent privatization tax, which on average takes back 70 cents on every dollar in private accounts. Some argue 80 percent. I mentioned this a minute a ago: $152,000 in benefit cuts for young people is based on the price index.

So I think it is important that we look at this, especially as Americans are forced to start thinking about this, something that is 50 years away of being a problem. And I must say, after 50 years, Mr. Speaker, 80 percent of the benefits that are now offered in Social Security will still be intact. In 2052, 2053, people will still be able to receive 80 percent of the benefits. So I am wondering, where is the fire?

I can tell the Members what is the fire right now, if we can use that as a metaphor, or the emergency. The emergency now is the fact that we have Americans working without health care. Emergency is the fact that we are not able to provide benefits to our veterans that are now paying more for health care that they were promised that would be free. Emergency is the fact that we have a Department of Homeland Security, that we are rated as an F as it relates to protecting our information technology. Those are true emergencies.

Emergency is the fact that we cannot protect our borders. Those are true emergencies. Emergency is the fact that we have local districts, local cities, counties and State governments that are suffering through the acts of this Congress in what we call devolution of taxation. We will cut taxes, but we are going to make them raise them on the local level. Those are emergencies. Those are right now pocketbook, wallet issues that are facing Americans right now.

I am glad the gentleman from Ohio (Mr. RYAN) joined me. I am starting to think that some people in this town may want us to say that something is an emergency, and it is actually not, while we are not looking at the ever-growing federal debt, the highest in the history of the republic; the fact that we are not looking at the fact that Americans do not have health care; the fact that we really do not have anything going on as it relates to making the dollar stronger; the fact that we do not want to address gas prices. Maybe this is the reason why we are spending all of this Federal jet fuel that the President is using flying around the country to try to persuade people to believe in a philosophy of privatization of Social Security when he himself has said privatization of Social Security alone will not save Social Security.

Mr. RYAN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. MEEK of Florida. I yield to the gentleman from Ohio, my good friend.

Mr. RYAN of Ohio. Mr. Speaker, I thank the gentleman for yielding to me.

I think he makes a great point, and I think the phrase that he has used in the past that is applicable to the Social Security debate is the ''Potomac two-step.'' They want us looking at Social Security over here and having this debate and flying around the country and talking about what needs fixing and a crisis that really does not exist, and we have numbers that say it does not exist, but we still want to have this debate over here.

Meanwhile, on this end, we are cutting Medicaid. Health care costs have gone up 50 percent over the last 5 years; education costs of college tuition up 36 percent. No one wants to talk about these issues. No one wants to talk about the fact that Youngstown city schools, the district that I represent, 85 percent of the kids who go to that school qualify for free and reduced lunch.

We do not want to have that debate. We want to have a manufactured debate. And I think the gentleman is exactly right. That is exactly what is happening here, and I think it becomes more and more important on us to fight this on a couple of different fronts. One is to make the argument that Social Security is solid up until 2041 and that we need to make some corrections maybe on a bipartisan way but make sure that the benefits are guaranteed, make sure that no American is going to get a reduction in their benefits, especially the 50 percent of the people who qualify for Social Security, in which Social Security lifts them out of poverty. So I think it is very important for us to broaden this debate over here and not just talk about Social Security but to talk about all these other issues.

One of the issues that I have been working on with Members of the other side, trying to somehow get the attention of the administration, is the issue of China, manipulating their currency up to 40 percent. We had a hearing today in the Committee on Armed Services.

Mr. MEEK of Florida. A joint hearing, I must add, Mr. Speaker.

Mr. RYAN of Ohio. A joint hearing with the Committee on International Relations and the Committee on Armed Services. I appreciate the gentleman's correcting me.

Mr. MEEK of Florida. I just want to make sure that we are factual, sir.

Mr. RYAN of Ohio. Constructive criticism. I appreciate that.

We had a discussion about the Europeans wanting to lift the arms embargo on China, which has been the Europeans cannot sell all these different types of military arms to the Chinese. The ban has been on since Tiananmen Square in 1989. Now the Europeans are saying we want to sell to the Chinese. So here we have this huge country that is growing at a rapid rate, and now we have even some of our allies wanting to sell arms to a rapidly growing Chinese government.

Mr. MEEK of Florida. Mr. Speaker, reclaiming my time, I think it is important that we realize the urgency of so many issues that are before us. And the issue as it relates to Social Security, as the majority side or as the administration would like for us Americans to see it, is that it is not rocket science. It is not a Federal emergency.

Forty-eight million Americans celebrate Social Security right now. Thirty-three million of those Americans would be living in poverty if it was not for it. We have a number of young people that are going to school solely on survivor benefits because their family members have moved on.

And I can tell the Members what is even further appalling is the President saying to the African American that I am pushing private accounts because African American males do not live as long as Anglos.

Mr. RYAN of Ohio. Unbelievable.

Mr. MEEK of Florida. In my opinion, Mr. Speaker, that is very wrong. But it goes to show us the desperation that some majority leaders on the majority side have to try to do this because they can.

But I can tell the gentleman the reason why we do not have a bill on this floor yet is not because we have staff or Members here that are lazy and do not want to write a bill. The reason why it is not here is that Americans are not with the administration and some Members of the majority side on messing with Social Security, especially as it comes down to private accounts on a risky scheme, because if not the number one, it is one of the main reasons why so many Americans appreciate this Federal Government, that we will keep our word, that we will stand by what we said we will do.

So when we start looking at these issues, the American people are not necessarily with the administration and some Members on the majority side as it relates to trying to change Social Security on a scheme of private accounts. That is why there is not a bill here. That is the reason why we hear some posturing here and there and an article saying we are going to start marking some up pretty soon.

I am going to tell the gentleman right now that discussion has been going on since 1978, and the reason why that discussion has been going on as it relates to private accounts since 1978 is the fact that the American people are not marching up and down the street saying, ''We want a reduction in our benefits; we want to gamble on our retirement.'' They are not saying that. What they are saying is that ''I have a Social Security card and guess what. When I reach the age I should be able to receive Social Security, I look forward to it. I want you to stand next to your word.''

So earlier I commended not only all of my Democratic colleagues but even some of the Members on the majority side that have the courage to stand up and say, I am here on behalf of my constituents, I am not here on behalf of myself, on being accepted by those who are trying to persuade them to do otherwise.

So when we start looking at it in a nutshell, Mr. Speaker, I am starting to believe more and more it is one of these things, look over here and think Social Security is Social Security. Meanwhile, we have the highest deficit in the history of the Republic. In Florida, that is a real issue; and I guarantee the reason why there are a number of Members of the Florida delegation that are not necessarily with the administration and the majority side and even some of those Members on the majority side are not with the majority side on the issue of privatization of Social Security, because eventually many of the gentleman from Ohio's constituents will be my constituents in the end in Florida.

Mr. RYAN of Ohio. If the gentleman would further yield, Mr. Speaker, the gentleman is absolutely right. Maybe one day I will even be his constituent, that one day I will move to Florida.

But I think the point that the gentleman from Florida brought up is the issue of the perennial budget deficits that we are having it seems every year in this Chamber, $400 to $500 billion a year, and I think when we talk in the 30-something group that we have established here, the reason we like to talk about and highlight the deficit is because long term that is going to have the most detrimental effect on members of the 30-something generation, 20-something, teenagers, born today.

We have huge numbers. Our debt is rising. Our deficit is going up and up and up every single year. And now to implement the Social Security plan, $5 trillion to implement the President's version of his privatization, $5 trillion over the next 20 years. We already have almost an $8 trillion national debt. Let me move this over.

Mr. MEEK of Florida. And those are as-of-today numbers.

Mr. RYAN of Ohio. These are today's numbers. And this clock is ticking by the second. But $7.7 trillion is the national debt today and ticking. Maybe we will be able to get the technology here where this will keep moving, $7.79 trillion national debt today.

And I think this is the most staggering number. Someone sitting at home watching this or sitting up in the gallery, their individual share of the national debt is $26,300. So if one is born today, welcome to being born in the United States of America, they have a $26,000 tag on their head.

Mr. MEEK of Florida. Mr. Speaker, reclaiming my time, I think it is important for the Members to understand and also for many Americans to understand that we did not just draw that number up in the back, that we were back there drinking a bottle of water, saying can we come up with a number that is a big number?

I know some of the Members are in their offices, and I think it is important that they know that national debt number as of today, and Americans and Members can go to the official Website of the U.S. Treasury. They have to go a couple of clicks, but I am going to share with the Members how they can get directly to that number and that ticker. Because if I am in the Treasury Department, I am going to have people go into two or three different clicks once they go to my home page and maybe, just maybe, they will get to the ticker because it is nothing that we can be proud of.

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Also, as it relates, we need to talk a little bit about those countries that have bought our debt and we are beholding to foreign countries. The gentleman does that better than me. But the Web site is www.ustreas.gov. That is the Department of Treasury Web site. Www.ustreas.gov. Or you can go directly to when you go on the page, because we are trying to share with the Members and educate the Members and make sure the American people understand exactly what is happening here, because it is not a badge of honor to be a Member of the 109th Congress and for history to reflect that we made the decisions to have the highest deficit in the history of the Republic. That is just not something that one can be proud of. But you can go if you want directly to www.house.gov/budget_democrats. That is www.house.gov/budget_democrats.

It is important, because our Democratic budget committee has really worked hard in making sure that we can pull this information out, that not only it should be useful to the Members on both sides of the aisle, but also to the American people.

Mr. RYAN of Ohio. If the gentleman will yield, I appreciate the gentleman sharing that information.

The real question is, we have to agree on this, and it is not a Democrat or Republican thing. This baby that is born with a $26,000 debt on their head, we do not know if that baby is a Democrat or a Republican. We have an obligation here for the next generation. And for many, many, many years our colleagues were standing in the well on that side talking about a balanced budget amendment, talking about fiscal discipline, talking about tax and spend. Now we are borrowing and spending.

This is worse. It is bad to tax and spend, and I do not think any of us advocate that. But to borrow and spend, because you are borrowing, you are spending and then you are paying interest on the money that you borrow, primarily from the Japanese and the Chinese banks. That is reckless. It is bad foreign policy, it is bad domestic policy, it is not conducive to providing opportunity for the next generation, your kids and the young kids that are coming up.

When you talk about funding health care, Medicare, Medicaid, education, tuition costs, Pell grants, No Child Left Behind, how are we going to compete with 1.3 billion Chinese, how are we going to compete with over 1 billion Indians in the next couple of decades, when we have kids, students, that are unhealthy and not getting the proper education that they need, and at the same time we are leaving this kind of burden on their backs?

Now, I have to excuse myself. I have a meeting I have to be at 3 minutes ago. But I want the gentleman to carry on here because this is important. I think the best thing we can do in our 30-something Caucus and our 30-something Working Group that our leader, the gentlewoman from California (Ms. PELOSI), has helped us establish, is talk about this, because if there is one thing I hope that I can say in my tenure in Congress and the gentleman's is that somehow we were able to fix this and make the kind of investments that the young students need and that they deserve and that will lead to the kind of opportunity that the gentleman and I have had.

Mr. MEEK of Florida. Mr. Speaker, reclaiming my time, before the gentleman leaves for his meeting, that I am pretty sure is very, very important, the gentleman is going to have to not only give the information on the Web site, because we want to hear from Members, we want to hear from Americans, to make sure that we get the information from them on how they feel, especially as it relates to Social Security, the Federal deficit and other issues, because it is important that we share this, not only with young people.

We have the 30-something Working Group. But in our age range, I say to the gentleman, there are a number of young parents that are out there, and so many times here in Washington, people say, well, we are doing this for the future generation.

Well, the future generation has $26,000 in debt right now and climbing. So I do not know. I do not feel good about my daughter and my son having to worry about college and all these other things, and then worry about the Federal debt at the same time.

Mr. RYAN of Ohio. If the gentleman will yield further, exactly. When you add on it the $26,000 that you are born with that is going to keep accumulating every day, especially when we are running $500 billion annual deficits, and you add on to that, just picture the baby born today, and this clock ticking, 18 to 22 years out, say 22 years out, that number keeps going up and up and up, and maybe next week we will have the math and figure out what it will be based on inflation. And then add on to that college costs rising at the rate they have been over the past 4 years.

I know in Ohio alone they have doubled, and I think average college students graduates with a $20,000-some debt, and that is not even if they go after a masters or Ph.D. or law degree. It is about $22,000 for the average college student's debt.

So you take the 26, you add on the 22, now you are talking close to $50,000; and then project that out 22 years. So your baby born today, if you want them to go to college or get a masters degree or law degree or Ph.D., you are talking at least $100,000, if not hundreds of thousands of dollars in debt. That is not providing opportunity. At the same time, they are competing with billions, over 1 billion Chinese workers and over 1 billion Indians. So this is becoming very dangerous for the long-term prospects of our country.

If you want to e-mail us, 30something democrats @mail.house.gov. 30something democrats@mail.house.gov.

I have enjoyed this. I look forward to us coming back next week. I hope this in some way has broadened the discussion and deepened the discussion on the issues facing the country.

I yield back to my very good friend from Florida.

Mr. MEEK of Florida. Mr. Speaker, I thank the gentleman. I want to thank the gentleman for co-chairing this 30-something Working Group that consists of 16 or 18 Members on the Democratic side of Members of the House. We, like I said earlier, try to come together and share this information, not only with Members of the Congress on what is important to the American people, but also what is important to young people that are trying to raise their families and have a good future for their children.

I think that it is important once again to know that on the Democratic side when we start talking about Social Security or we start talking about Social Security reform, I think it is important that the American people understand that we want to strengthen Social Security without slashing the benefits that Americans have earned. I think that is important.

I think that when you start talking about what Americans have earned, I believe that is paramount in this debate. And I think when they earn something, I think we need to make sure that we stand by our promise.

Now, when we have a forecast for the present benefit structure that will for almost 50 years be in place, and then beyond those 50 years 80 percent of those benefits will be provided, I think that is standing next to our promise.

I think there are some things that we need to do to make sure that the Social Security trust fund is solvent for years to come. One is to stop deficit spending in such a large amount of money every Congress; every budget that is passed, deficit spending. The whole philosophy of pay-as-you-go is no longer a philosophy as it relates to the majority. It is putting it on the credit cards. It is saying it is okay for foreign countries to buy our debt. It is saying that we will forestall it off to future generations.

I do not believe that that is something that we should subscribe to. I think we should work hard in bringing the debt down and paying back into the Social Security trust fund. That will have us continue to provide the kind of benefits that we look forward to, that many Americans look forward to.

When the President starts off in saying it is going to be $5 trillion to put forth his philosophy, I think that is problematic at the beginning, saying we are going to save you money, but we are going to borrow money to help you save money. It sounds like the Potomac Two-Step once again. And so it is important that we realize the gravity of this situation, knowing that there are issues that are greater than an emerging problem in 50-some-odd years.

So it is important that we do as we always do as Americans, come together to save great programs and to be able to help our elderly and frail, to be able to help those individuals that have worked all their lives, the 48 million Americans I speak of that are already receiving Social Security benefits and that are counting on them.

So, Mr. Speaker, I look on the bright end of things as I start heading towards a close here. The 48 million Americans that are celebrating Social Security right now, that are receiving on average $550 a month right now, which we know as of today if the majority side and the President's philosophy was in force, because there is no plan, that those benefits would be $516. That is easy math. That makes a world of difference to someone that is on a fixed income.

We know that 33 million of those 48 million are retirees. So when the 30-something Working Group starts to look at priorities, we want to watch out for our parents, we want to watch out for our future and for our children's future.

So when we were here in the state of the union and the President started talking about, well, people over 55 do not worry about it, my proposal will not affect your benefits, are we promoting two Americas, or are we promoting unity? I am glad my mom did not call me up and say, Kendrick, guess what? I am okay. You are not. Good luck. That is not what Social Security is about. It is not the ''Kendrick Meek Report.'' This is what took place here in this Chamber, in the state of the union, with both Houses coming together at that time.

So it is important that we realize what is being said and what is being done. Forty-eight percent of those individuals, of the 48 million, would be living in poverty if it was not for Social Security. That is important to the 30-something Working Group, especially for those young professionals that the gentleman from Ohio (Mr. RYAN) talked about when they leave their higher educational experience on average $20,000 in debt.

For those individuals, I mean, I thank God for the ability to have had the opportunity to go to school on a football scholarship and I left college without being in debt. But, guess what? Everyone is not an athlete. Every student going to college did not go on a scholarship. Some people had to get a student loan. And even for those that went on scholarships that had parents that could not afford it, Mr. Speaker, the money that it takes to buy books and other things that scholarships do not provide, they leave college or a post-graduate degree $20,000 in debt.

So if we start messing around with the benefit structure under the privatization scheme, guess what? We are going to have to take care of our parents and our grandparents. We are going to have to subsidize their income. We do now, but it will be greater. So that is the reason why this is important, that the facts are put forth. Forty-seven years of solvency, the way Social Security is right now will continue.

So, Mr. Speaker, I look forward, as long as there are those that are in this Chamber and outside of this Chamber that are sharing with the Americans inaccurate information and saying that privatization is good and it is going to be a really nice thing for all Americans and we all should do it, the 30-something Working Group will continue to work not only with the Democratic leader, the gentlewoman from California (Ms. PELOSI), and the gentleman from Maryland (Mr. HOYER), who is our whip, and the gentleman from New Jersey (Mr. MENENDEZ), who is our chairman of the Democratic Caucus, and the gentleman from South Carolina (Mr. CLYBURN), who is our vice chair of the Democratic Caucus, and sharing accurate information with the American people and staying in the fight of informing them on the truth about what is happening right now; not what might happen, what is happening right now and what is going to happen for years to come.

□ 1745

Because, remember, I say to my colleagues, Social Security in the 1980s was saved by a Democratic House, working along with Ronald Reagan in the White House, doing what we had to do on behalf of individuals that were carrying Social Security cards to keep our promise to them. We did the right thing, and we will continue to do the right thing. But the right thing is not increasing the Federal debt, and it is not taking a gamble on private accounts.

So we will continue to share this information. I want to thank the Democratic leader for allowing the 30-something Working Group to have this hour. We look forward to being back next week, sharing good and accurate information, and the topic will be Social Security, with the Members of the House.

SOCIAL SECURITY AND U.S. ENERGY POLICY

The SPEAKER pro tempore (Mr. PRICE of Georgia). Under the Speaker's announced policy of January 4, 2005, the gentlewoman from Tennessee (Mrs. BLACKBURN) is recognized for 60 minutes as the designee of the majority leader.

Mrs. BLACKBURN. Mr. Speaker, I appreciate the opportunity to be here on behalf of the Republican leadership in the House. It has been so interesting listening over the past hour as my colleagues from across the aisle have talked about various and sundry issues, as they have gotten around to talking about Social Security.

I am here to talk about energy tonight, but before I do that, I want to spend just a few moments and dispel some of the myths that we have been listening to for the last hour.

I think that possibly my colleagues do not intentionally mean to misrepresent the facts. I think, though, that they are just sadly misinformed many times and have a misunderstanding of some of the facts. I would like to, if I can, clarify a few of these, dispel a couple of myths.

We have heard that Social Security is fine until 2052. Then we have turned around and heard that benefits are going to be cut immediately, and that is of concern to me.

I think we all know that there is a date, 2018, and 2018 is the date when the Social Security system will stop running a surplus. Now, this is important to us, because it is at that point in time when those IOUs that the government has been writing, the Social Security system, the Social Security fund, those are going to come due in 2018. Now, 2042 is the date that the IOUs run out. The question for us to answer is this: what are we going to do? How are we going to pay it from 2018 until 2042.

My colleagues have come against the President for raising this issue. I would like to commend the President for having this discussion with the American people, for encouraging us to talk about how we go about addressing Social Security. It is important for those of us, the Members of the House elected from 435 districts around this great Nation, to decide what is going to be the best way to address Social Security.

With my constituents, we look at it as two tracks. One, the stabilization and solvency, how are we going to address this? The other we look at is the enhancements. That is where we begin talking about the personal accounts.

Mr. Speaker, one of my colleagues today has called it a privatization scheme, and I find that very sad. Because the money that men and women, each and every one of us, pay into Social Security is money we have earned, and that is something that we deserve to have, that our children deserve to have as a nest egg to build from as they get ready to retire. It is not a scheme. It is called working and earning a living and setting aside, and that is money that you have earned and you deserve to have, to be able to pass on to your heirs.

Personal accounts is your own personal lockbox to be certain that that money is going to be there at the time that you get ready to retire.

I have also heard them talk about we need to stop deficit spending. Well, lo and behold, I would just love it if they would join us as we as the majority try to work on deficit spending. But do my colleagues know what happens? Every single time we talk about reducing a program, every single time we talk about eliminating a program that has outlived its usefulness, every single time we talk about government efficiencies, what do they want to do? They want to grow the program. They do not want to cut a program.

Mr. Speaker, Ronald Reagan said the closest thing to eternal life on earth is a Federal Government program, and he was right. Because once you got it, it is so incredibly difficult to get rid of it. So I invite our colleagues from across the aisle to join us.

We passed a budget this year. We have done some great things this year, and I commend our Republican leadership for some of the steps that we have made, such as the budget. Our budget chairman, the gentleman from Iowa (Mr. NUSSLE), did a great job working with the committee bringing forward a budget that has a reduction in nondiscretionary, nonhomeland security defense spending. Many of our colleagues wanted to vote against that and did vote against that, because it was not spending enough.

Mr. Speaker, you cannot have it both ways. You cannot have it both ways. So we invite our colleagues to work with us to get the spending down.

We also want to be certain that we take a look at some of the things that need to be addressed as we talk about Social Security, as we talk about the future, as we talk about education for our children, as we talk about opportunity. One of my colleagues said they went to college on a scholarship and talked about scholarship and loans and ways to get through college. A lot of us did like me: worked, worked hard, worked hard selling books door to door to get through college. And for many, many American men and women and young people today, they are working and they are striving to get that education so that they can enjoy hope, opportunity, and benefits of this great Nation, so they can build a nest egg and have a great retirement and a solid future, not only for them but for their children and for their grandchildren.

So we invite our colleagues from across the aisle to join with us to reduce this spending and to address the solvency of the Social Security system, to join with us as we talk about passing a budget that is going to reduce spending, cut the deficit in half in 5 years.

One of the reasons we are here talking about this deficit, and Mr. Speaker, I just cannot let this go by, they say you have to cut it, you have to stop spending. We have this national debt.

Do my colleagues know how we got here? We got here because of 40 years, 40 years of Democrat control, Democrat spending, programs that were growing and growing and growing and were not being called into accountability; 40 years of just taking that credit card and running those numbers off, swiping them away, run it up, run it up, run it up. Pass that debt on. Let

future generations worry about it. Live for today. Enjoy it. It is the Federal Government's money. Spend it all before you get to the end of the year.

I commend our Republican leadership here in the House: our Speaker, the gentleman from Illinois (Mr. HASTERT); our leader, the gentleman from Texas (Mr. DELAY); our whip, the gentleman from Missouri (Mr. BLUNT); our conference chair, the gentlewoman from North Carolina (Ms. PRYCE); and I commend the President and our administration for working with us to say, let us begin to turn this ship around. We did not get here overnight. We did not. And we are working diligently every single day to turn this around. I think we are seeing great success.

As I mentioned a moment earlier, we have had a busy agenda. Despite what my colleagues from across the aisle would like to say, we have had a busy agenda this year. We have gotten a few good things done. We have passed class action reform, which has been a long time in coming. Greedy lawyers, greedy trial lawyers have just had their way too often for too many years with the American court system.

As I said, we have passed a budget that puts us on the path to fiscal responsibility. It is not going to be done overnight. It is not going to be done today or tomorrow. It is going to take us some time.

We are having a national discussion on the issue of Social Security. Yesterday, we passed a permanent repeal of the death tax, which is a triple tax on many farmers, on many small businesses in my district in Tennessee. Today, we passed bankruptcy reform.

All of these are steps in the right direction. They are good things. At the same time, we have been talking about reducing taxes and cutting spending. We have to have that discussion one with the other. You cannot leave it unattended.

At my town halls over the past couple of weeks, we have heard a lot about Social Security. We have heard a lot about immigration, also; and, Mr. Speaker, I hope that at some point we will be able to come back to the floor and address that. But we are also hearing about energy and about the price.

One of my colleagues earlier this afternoon said, we need immediate relief from $2 a gallon plus gas, and we need to do something right now. There is something that we can do, and it is called passing an energy bill, because it is a step in the right direction; and there are few issues that are more central to our economy and to our national security than energy and having a good, solid energy policy. There truly is no single American whose livelihood, whose standard of living, whose security as a citizen of this great Nation does not depend on our access to a stable and abundant energy supply.

Now one would think, given the absolute critical nature of this issue, that we would have been able to easily pass a national energy policy bill several years ago, but, Mr. Speaker, that has not been the case. I commend our chairman, the gentleman from Texas (Chairman BARTON), for the great work he has done on this issue this year.

We are going to hear over the next week as we bring this bill to the floor that, oh, my goodness, it was passed in haste. Well, let me tell my colleagues what. We started a hearing on April 6 with opening statements. We finished in committee last night, which was April 13. And I would remind my colleagues that during the 107th Congress, from 2001 to 2002, the Republican-led Committee on Energy and Commerce held 28 hearings related to the comprehensive national energy bill. Mr. Speaker, in 2002, the Committee on Energy and Commerce spent 21 hours marking up an energy bill and considering 79 amendments. In 2003, they spent 22 total hours and 80 amendments. In 3 years, House Republicans have held 80 public hearings, with 12 committee markups and 279 amendments. Senate Republicans have held 37 public hearings and 8 markups.

What is the common theme here?

The common theme is that conservatives keep pushing for reform, and conservatives keep pushing for a national energy policy. We get it. Republicans in Congress have dedicated hundreds, if not thousands, of hours over the past several years making energy policy for this Nation a priority. During the 107th Congress, we proposed the Securing America's Future Energy Act. In the 108th Congress, it was called the Energy Policy Act of 2003. And while many across the aisle opposed this effort, we are not giving up.

This week at the Committee on Energy and Commerce we met for nearly 28 hours and considered almost 70 amendments. Thanks to the leadership of the gentleman from Texas (Chairman BARTON), we were able to pass this bill out of committee; and it is a tremendous step toward a goal of national energy policy. It is a big step toward having a national energy bill, and I do commend all of my colleagues on the Committee on Energy and Commerce and our chairman for their diligent work and tremendous efforts.

Time and again, we face Democrats in the House and the Senate who put their pet projects over this matter of national security and economic security, this energy bill. Mr. Speaker, part of the hold-up on this issue has been a group of extremely liberal ideologues who think we should require half the Nation to give up their cars and bike to work. They have made every attempt to halt progress on this bill because the bill will help open new domestic sources of oil, domestic oil that will ease some of our reliance on foreign sources.

I want to say that one more time, to be certain that everyone gets that. They have opposed it because this bill will help open new domestic sources of oil, domestic oil that will help ease our reliance on foreign sources.

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And that must be a priority. And I agree there has to be a balance between efforts to develop alternative energy sources, but that cannot come at the expense of our current need for access to oil and gas supplies. And I believe the bill that the gentleman from Texas (Chairman BARTON) has put together meets all these needs, and it should have the support of every single Member of this body.

I would like to spend a few moments with this poster right now and go through some of the things that we have covered in our Energy Committee this week and things that the American people and the Members of this House are going to become very familiar with over the next week as we look at energy policy.

At the top we have got a quote from our chairman, the gentleman from Texas (Mr. BARTON), who said, I agree with our President, 4 years is long enough for an energy bill. That is how long we have been working on this. And for individuals who will say we have not spent enough time on it, I do not think there is ever going to be enough time spent on it. And the reason for that is this, because they are just not getting everything they want; and so therefore, they are going to try to keep the bill from moving forward. Four years is enough.

The Energy Policy Act of 2005, this is what you are going to find in that bill. It improves our Nation's electricity transmission capability and reliability.

Mr. Speaker, this Nation has suffered a series of blackouts over the past decade. All of us remember the August 2003 blackout that affected the Northeast. And that is what we are trying to prevent with this legislation.

We are providing incentives for transmission grid improvement and for strengthening reliability standards. It is important to do that. It is important to be proactive, to provide those incentives for the grid improvements. This is about providing the resources our economy needs so that it can grow and about protecting ourselves from future blackouts.

We have heard some discussion today about needing jobs, needing to grow the economy. One of the ways we can do that is having a stable, safe, secure, dependable energy supply. One way we can do that is by reducing our reliance on foreign oil sources.

Number two, the bill will also encourage development of new fuels, of hydrogen fuel cell cars, and give State and local governments access to grants that will support acquisition of alternative-fueled vehicles. And that program with the alternative-fueled vehicles is the Clean Cities program. This is something that will provide those communities that are dealing with transportation the opportunity to look at alternative-fueled vehicles. We are going to see some of these alternative fuels come about. It is important to Tennessee, my State. It is important to others.

We are hearing a lot about biodiesel, about ethanol, about the hybrids that some of the auto manufacturers are producing. And of course in Tennessee we have a Nissan plant. We have a Saturn plant, and we know that research and development and new design for hydrogen cell cars is there. It is on the drawing board. We need to do what we can do to encourage that. This bill will do that.

Number three, we have also made sure this effort does not ignore clean coal technology, renewable energies like biomass, wind and solar hydroelectricity.

Number four, the Federal Government is going to help lead the effort in energy conservation through this legislation by requiring Federal buildings to comply with efficiency standards. We can help set the example, and we should be setting the example, and we are going to do that with this piece of legislation.

We are targeting those high utility bills. When it comes to liquefied natural gas, we are clarifying the government's role in the process of choosing sites for natural gas facilities. By streamlining the approval process for this important energy sector's facility construction, we can provide some stability to those large segments of our country that depend on natural gas for fuel.

Mr. Speaker, every American knows our country is dependent on oil. It is essential to our economy. By increasing oil and gas exploration and development on nonpark Federal lands, and by authorizing the expansion of the strategic petroleum reserves capacity to a billion barrels, we are doing everything we can to meet our domestic demand and to protect ourselves from future shortages.

Both nuclear and hydropower have a significant role in providing energy for millions of Americans, and our legislation will allow the Department of Energy to accelerate programs for the production and supply of electricity and set the stage for construction of new nuclear plants and improving current procedures for hydroelectric project licensing, looking to the future, and looking to the nuclear and the hydropower and the role that they will supply.

Mr. Speaker, all of this is good for our economy, and it is good for our national security. We know that. We know it is important that we continue to have a ready energy supply for manufacturing.

One of my colleagues earlier today was talking about, my goodness, you know, China, and dealing with China and the currency there, it concerns us. It concerns us when we see jobs leave. It concerns everyone. And one of the ways that we make sure manufacturing continues to grow as it has done over the past 2 years, and I will remind my colleagues this past quarter we had the best manufacturing numbers we have had in this country in about 2 decades. We give this Republican leadership in the House and the Senate and the Republican leadership and the administration a little bit of credit for working to create the environment that the private sector needed to do what, go create jobs, two million new jobs, and also, to increase the productivity and the output in manufacturing and also, as that has happened, to increase the capital investment. It will become a little bit better, a little bit more affordable for the private sector to create those jobs and to increase that manufacturing output when we have a stable, a dependable, an affordable energy supply. And that is one of the things that the Energy Policy Act of 2005 will help to do.

Now, I heard one of our colleagues earlier talking about the gas shortages of the 1970s. And I think that many of us can remember those. And everyone who does agrees that economic security and national security, when it comes to energy, certainly go hand in hand. And for those across the aisle, many, like the minority leader across the aisle, who have worked against our effort to secure America's energy sources, I hope that now, after the Republican leadership has made the case for this bill and legislation, and after 4 years, 4 full years of work, that they will join us, that they will vote for and support this legislation.

And if the liberal leadership in Congress does not really see the light on this issue, let me help to clarify this. I would like to show our second chart.

Mr. Speaker, this is where we have been over the past two Congresses, the 107th, the 108th, and the 109th Congress. On the left, you will see that you have the Congress and the energy legislation that the Republicans tried to pass, but were unable to get through because of Democrat opposition.

And on the right you have the national average prices of a gallon of regular unleaded gasoline for the second week of April each year that this legislation was going through the floor, and each time the Democrat leadership was fighting passage of an energy bill. And I hope that the individuals that are watching are going to see a trend here, because we have had a lot of inaction since the 107th Congress. And with that inaction, guess what has happened? Higher prices. Democrat obstructionism means a bigger bill at the pump. And for my colleagues that earlier today were saying you have got to do something, gas is over $2 a gallon, well here is the something to do. It is called vote ''yes'' on the energy bill. Let us move this process along. There are Members that have been obstructionists for too, too long. Let us vote ''yes'' and let us move the process along.

Now, during the 107th Congress, in 2001 and 2002, we pushed a comprehensive energy bill. And at that time the gas prices averaged $1.46 a gallon. During the 108th Congress, in 2003 and 2004, Republicans in the House were again supporting a national energy policy. Gas prices had increased by an average of 20 cents, and they were at $1.69 a gallon.

Mr. Speaker, now the 109th Congress, we are facing $2.28 a gallon. My question is, how can the Democrats continue to say no? They need to join us and show some support for the energy bill.

This bill is a bill about options. It is a bill about options for today, more affordable oil and gas. It is about options for the future as we look at research and development, as we look at new technologies. And it is important for our Nation's economy and for our Nation's security that we move this along.

So I hope that next week, as we take up the national energy policy act on the floor of the House, that Democrats will enthusiastically and finally join Republicans in passing this legislation. Time for inaction has long passed.

Mr. Speaker, I think it is time we passed this bill next week and that we answer that question that some of our constituents are asking: What are you going to do about it? We are going to do what we have been trying to do for 4 years. We are going to pass an energy bill.

We hope that the Democrats across the aisle will join us in passing this bill, helping to secure our Nation's energy supply and helping us plan for the future.

VICTIMS OF CRIME ACT

The SPEAKER pro tempore (Mr. PRICE of Georgia). Under the Speaker's announced policy of January 4, 2005, the gentleman from Texas (Mr. POE) is recognized for 60 minutes.

Mr. POE. Mr. Speaker, I rise today to speak for a group that live in the silent storm of stressful sadness. They live with the vicious wounds of being a victim of crime in America. To be a victim, to be chosen to be the prey by a predator, to have a life stolen or broken by criminal conduct, Mr. Speaker, it is a terrible and tragic travesty. But to have your own government desert you, abandon you, too, is an injustice. It is an injustice to the injured, to the innocent, to the victims.

Mr. Speaker, the Victims of Crime Act, VOCA, the VOCA fund was created in 1984 by President Ronald Reagan to provide the most consistent stable source of funding for services to crime victims. It included counseling, victim advocacy programs, safety planning, State victim compensation funds that would help crime victims recover the costs associated with being a victim. Yet the current budget proposes to rescind the over $1.2 billion presently in this fund and redirect its resources to the Department of the Treasury, where it will be treated in the general revenue. It would go to the greater business of the general fund.

Mr. Speaker, VOCA funds, these funds that we are talking about, are

not derived from taxpayers paying dollars to the Treasury of the United States. But these funds come from fines and forfeitures and fees paid by convicted Federal offenders. This is an offender's accountability for the harm they have caused when they committed the crimes against citizens. It is a wonderful, successful idea. It makes outlaws pay for the damage they have caused; makes them pay for the system that they have created. It makes them financially pay the victims for these crimes.

In fact, there are over 4,400 programs that provide vital victim assistance services to nearly 4 million victims a year because of these funds that are contributed by criminals.

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Half of these victims receiving these services are victims of domestic violence. Other victims are victims of sexual assaults, child abuse, drunk driving, elder abuse, robbery, assault, and old-fashioned stealing. They receive this type of assistance through shelters and rape crisis centers, child abuse treatment programs. Prosecutors' offices received help, law enforcement agencies and victim advocates. All of these agencies received funds paid into this fund by criminals.

State crime victims compensation funds with VOCA funds help crime victims to pay for out-of-pocket expenses that they incurred while the criminal committed a crime against them. These expenses include medical care, counseling, lost wages, funeral costs, and many, many more.

You see, when a crime occurs, the victim has no recourse financially against a criminal, even though the criminal may be convicted and sent to our Federal penitentiaries. Criminals just do not have any money. So victims are compensated through this fund through fees paid by other criminals.

Many victims, when they suffer criminal conduct against them, have no insurance. This is what they look to to save their livelihood and their lives. Without victims' compensation funds in the United States, funded by VOCA programs, paid by the defendants, victims have two choices, live without this aid or ask taxpayers to pay in some form of taxation what defendants are now paying for and what defendants should pay for in the future.

Mr. Speaker, as the founder of the Victims Rights Caucus along with the gentlewoman from Florida (Ms. HARRIS) and on the other side of the aisle the gentleman from California (Mr. COSTA), all of us are united in this decision that reducing VOCA funding is an injustice to the people of the United States, the good people, the people who never asked to be victims of crime but yet they were chosen by some criminal to be a victim.

It is ironic, Mr. Speaker, this is Victims Rights Week, the week that we proclaim in the United States the worth and value of victims, and yet it is the week that the budget is considering to reduce these funds, take these funds donated by criminals and put it in the general fund. How ironic this is.

Mr. Speaker, in all of my career I have been involved in the political process, I have been involved in the justice system. First in the District Attorneys Office where I served as a chief felony prosecutor in Houston, Texas, for about 8 years and then a judge in Texas for 22 years where I saw 25,000, 25,000 defendants come to court charged with crimes against an equal number of victims. And during all of that time I have witnessed in the United States the victims' movement, how victims have been treated in the system. And sometimes we have forgotten as a people in 2005 how victims have been treated over the past.

Things have not always been as good for victims after the crime as it is now; and I think a history lesson is due, Mr. Speaker.

I tried numerous cases as a prosecutor, numerous defendants, death penalty cases, but I would like to talk about one person who really showed me the way of how victims continue to be victims after the crime was committed. And I have changed her name because her family still lives in Houston, Texas.

Back in the late seventies there was a young lady who was married and had a couple of sons that lived in Houston, Texas. She worked in the daytime. At night, she went to school working on a masters degree at one of our universities.

She left the school one evening. Her name was Lisa. And she was driving down one of our freeways and she had car trouble so she exited the freeway, Mr. Speaker, came into a gas station that she thought was open. It was not open. It was closed, but she did not know that. And she got out of the vehicle and started talking to an individual that she thought was a service station attendant.

Luke Johnson was not the service station attendant. He was just hanging around. One thing led to another, and Luke Johnson pulled out a pistol. He kidnapped Lisa, took her and her vehicle to a remote area of East Texas that we call the Piney Woods. He sexually assaulted her and pistol-whipped her. In fact, he beat her so bad that he thought he had killed her. Later, when he was arrested, he was mad that he had not killed her.

Lisa was a remarkable woman. She survived that brutal attack. She was found about 2 days after she was abandoned in the woods by a hunter that was going through that area. He stopped, rescued her and made sure that her medical needs were met.

After she recovered from this vicious attack, Luke Johnson was arrested and charged with aggravated rape. I prosecuted him for this conduct. A jury of 12 citizens in Houston, Texas, heard the case, heard Lisa testify in this case. Luke Johnson was convicted and received the maximum sentence of 99 years in the Texas State penitentiary as he earned and as he deserved.

Now we would have hoped as a people, as a culture that justice would have been done, that we would go on, that life would be good, but that is not, Mr. Speaker, the world that we live in. Because we live in a world far different from that.

As Luke Johnson is shipped off to the penitentiary where he belonged, Lisa could not quite cope with that crime. The first thing that happened was she never went back to school, never wanted to go on that campus again. The next thing that occurred was she lost her job. In fact, she was fired. She could not focus, and she bounced around from job to job. She started abusing drugs, first alcohol and then everything else.

Her husband, the sort that he was, decided he no longer wanted her. He sued her for divorce, convinced a judge in Texas that she was not mentally capable of raising those children that she had, and he got custody of both of them. He moved out of the State of Texas where he is somewhere else in this country today.

Then not long after all of this occurred, Lisa's mother gave me a phone call and told me that Lisa had taken her own life and she left a note that I still have in my office today and that note says, ''I am tired of running from Luke Johnson in my nightmares.''

You see, Lisa faced this entire crime alone. There was no VOCA. There were no funds for victim advocates that could sit and be with Lisa through the trial. There were no funds for therapy and counseling after this crime and after the trial. Lisa was on her own when she testified, and she was on her own after the crime was over, and she received the death penalty for being a victim of crime. Luke Johnson, he just spent a few years in the Texas penitentiary for that crime, and he is running loose somewhere in Texas.

Times did change from this type of conduct where victims were abandoned by the process, and we have progressed. When I was a judge, to show you the example of how people through VOCA make a difference, I will tell you about a second case.

This case involved a little girl named Susie. A first grader in Houston, Texas, she walked to school every day and walked home. You know, in the big city we do not normally like our kids walking to school or walking home. It is not safe. Susie's case proves the point.

One afternoon, she is walking home from school, a 7-year-old first grader in Houston. This individual, who had been stalking her for some time, pulled up beside her, rolled down the window of his pickup truck, yelled out the window, Hey, little girl. I lost my dog. Can you help me find my dog?

She stopped long enough for this perpetrator, this predator to jump out of his vehicle, grab Susie, kidnap her and

take off. He left Houston, Texas, and went down to the Gulf Coast down to the beach area of Galveston, Texas, about 50 miles from Houston. He took her to a secluded portion of that beach area, and he did to that little girl, that 7-year-old, exactly what he wanted to for as long as he wanted to do it. After he was through having his way with Susie, he abandoned her in the darkness of the night and fled. Before he left, however, he took all of her clothes away from her.

About the time the sun was coming up, Susie, in shock, walking up and down the beach, was rescued by a sheriff's deputy that was patrolling the area. She received medical aid and the attention that she needed.

The person that committed this crime was arrested out of State, extradited back to Texas to stand trial for this crime of aggravated sexual assault of a child, a 7-year-old girl.

The case was tried in my courtroom. It was sort of a high publicity case because of who the defendant was. But when Susie took the witness stand, sat next to me on the witness stand, the prosecutor started asking her questions and she turned and saw the perpetrator in the courtroom, she could not say anything. She did not say anything. All she did was stare at the offender. Eventually, she started to cry. And, Mr. Speaker, she has cried a long time. She probably thought she was alone. She was alone, but she could not testify.

Well, what do you do? Well, this was the main witness. Without this witness, the State did not have a case. The prosecutor asked for a postponement of the trial. I quickly granted that. We recessed. We came back a day or two later, and we started up the trial again.

Susie testified, sat next to me and testified. And that day she was able to testify in detail, graphic detail what happened to her when she left school one afternoon and what this perpetrator did to her.

The difference, the difference was there was another person in the courtroom, seated on the back row looking at her, telling her in her own way, you can testify. You can do this. I believe in you.

Who was it? It was the victim advocate that worked with the District Attorney's Office that walked that little girl through that case. And because that woman was in the courtroom and because she had worked with this victim before and Susie saw her, it gave her the courage to testify. And that predator, that child predator was convicted of that case because one person, a victim advocate, was present in the courtroom.

See, there was a time there were no victim advocates in the courtroom, and that time has passed, and part of the reason is that VOCA funds are used to fund advocates of victims in our courtrooms.

One of cases that I tried where I met my first victim advocate was a case that was called the choker rapist. What this individual did, he assaulted co-eds from the University of Texas, choked them and sexually assaulted them. He did this numerous times. He was sent to the Texas penitentiary. By some error or mistake, having been sentenced to about 700 years in the penitentiary, he was released after a short period of time. He came to Houston, and he continued these ways of assaulting co-eds from the University of Houston. He was captured again, and this case was tried. The victim in that case was similar to Susie in that it was difficult for her to testify. She was older. She was a college student.

The first victim advocate that I ever laid eyes on in 1984 was sitting in the courtroom, helping this witness keep with the trial and the crime and testifying. That person's name was Anne Seymour, and that was many years ago. But yet Anne Seymour and many like her work with victims on a daily basis, and part of the way they are able to take care of victims is by funding that they get from VOCA each year.

Mr. Speaker, many people do not realize that when the Oklahoma City bombing occurred, now 10 years ago, that travesty, that assault on American citizens, VOCA funds were available and used to help those victims cope with that emergency. And those funds were available immediately so that victims and their families could be helped.

I would like to read a letter from Marsha Kite. Marsha Kite's daughter was killed in the Oklahoma City bombing, and her letter states how she feels as the mother of a murder victim about the VOCA funding.

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She says: We are only days away from the 10th anniversary of the Oklahoma City bombing and I hear that there is consideration for emptying out our Federal crime victims fund.

Number 1, this critical fund that is paid for by criminals and not taxpayers.

Two, the fund helped thousands of families and survivors of the Oklahoma City bombing, including my own family. The administration needs to take a hard look at what they are contemplating and realize the devastating impact it will have on programs that provide direct services to crime victims, including crisis intervention, emergency shelters, emergency transportation, counseling and the criminal justice advocacy programs, all of which were provided to Oklahoma City families.

Number 3, no person, regardless of life choices or situations, should be met with the harmful or inadequate services. Each victim should be provided with the opportunity to access services based on their needs and not be further traumatized by a system that is neither prepared nor underfunded.

So, Mr. Speaker, these funds have helped numerous victims and their families, and it would be a total injustice to cut these funds and put them in the abyss of the general revenue.

Other examples of VOCA funding go to domestic violence shelters. Domestic violence shelters are a necessary requirement in our culture, and good people throughout this United States organize and establish these shelters to protect victims of domestic violence.

We have such a one in my hometown of Humble, Texas. It is called Family Time, and Family Time is available on a 24-hour basis for victims of domestic violence where they can go and find safety when they have to flee their own homes. If they do not go to these domestic violence shelters, where will they go?

If it was not for these shelters, many of these abused women would go directly back to that house and be victimized and abused again. These shelters are saving their lives. Many of these shelters rely on VOCA funding, and they would close down without the help of these funds, and these women and these children would be sent back to an environment of violence, domestic violence.

These are just a few examples, Mr. Speaker, of how these funds are spent.

It is interesting how we, as a Nation, are very concerned about the victims in lands far, far away across the seas, the recent tsunami crisis, where we have President Bush and President Clinton raising money in the United States to help these victims. While it is very important that we show that we are compassionate to peoples all over the world, Mr. Speaker, charity begins at home, and we need to take care of our American families first and then the world families, if necessary.

So we must do both, but we must never neglect our own people, our victims for some other Nation.

Mr. Speaker, I would like to just continue this history lesson talking about children, children in the criminal justice system, specifically children who are the victims of sexual assault.

There was a time, Mr. Speaker, when a child that was sexually assaulted would have to go through a long process in the criminal justice system. It in itself was a crime. The victim would be interviewed, usually by a police officer, a stranger. Another police officer would instruct the victim to go to the county hospital. They would wait in the emergency room along with everybody else that goes to the emergency room. They would be seen by a doctor that may or may not know anything about sexual assault cases, a doctor that sometimes was not even available to testify at the trial because they had been sent to some other hospital in the Nation.

After being seen by this doctor, then the child would have to go to the police station to be interviewed again, and there were occasions in my home city of Houston that these victims would sometimes get on the elevator to go to be interviewed by the homicide detective, and the perpetrator would be on

the elevator as well going to be interviewed by another detective.

Then, after this was over with, they would have to go to the district attorney's office and be interviewed for the trial by a prosecutor, sometimes a prosecutor that has never tried a sexual assault case, and eventually the trial would come and those traumas would continue.

Mr. Speaker, we are fortunate to say that those days are over. Those are no longer the days of children that are sexually assaulted in the United States because of groups like the National Children's Alliance here in Washington, D.C., where I am a board member. That alliance has over 400 children advocacy centers throughout the United States, and what those centers do is this.

When a child is sexually assaulted, rather than be bounced from place to place, agency to agency, they are taken to one location, a child friendly location, and probably the best example of this center is in Houston, Texas, Children's Assessment Center, that is a privately funded, publicly funded establishment, and here is what happens.

When a child is sexually assaulted, they go to this center. It is a very friendly, child friendly center, and they are interviewed only by child experts. They are interviewed about the crime and what took place. Their medical needs are met there by qualified doctors and nurses that deal with child sexual assault victims. The child, after this occurs, is allowed to talk to a prosecutor that deals only with child assault cases. The child then, before and after they testify, are provided therapy and counseling by child psychiatrists and experts, and they do all of this at the center. Every time they need to be involved in the case, they go to this one place, very child friendly, and because of centers like the Children's Assessment Center in Houston, Texas, and 59 others in Texas, 400 or more in the United States, child victims are able to cope and recover from the tragedy of sexual assault against them.

Children's Assessment Center in Houston sees 350 children a month that have been sexually abused and assaulted. They receive VOCA funds, as well as funds from the community, from private foundations and the county government. The funds at the Children's Assessment Center go for a therapist, a bilingual therapist, that is able to talk to children that do not speak just English. That therapist, along with other therapists, will disappear if VOCA funds are cut.

Just to show an impact on these centers, they constantly help kids cope with the crime. It is more important to help the child recover than even to have the perpetrator convicted, but they do many things with these kids to help them realize what has occurred in their own lives and how they can vent by even writing a letter to the perpetrator.

I have one such letter that was written by a little girl to the person who sexually assaulted her that I have received from the Children's Assessment Center in Houston today, and she starts out her letter this way.

These are some of the things that I have been wanting to say to you. I used to think that you were a nice person and that you would never hurt me. Then things changed. After you began touching me, I thought that you were not a nice person, and I wondered if you were hurting Mommy, too. When I think of you touching me, I get very mad, and I sometimes am sad. You are a jerk and a child molester. Sometimes when I think of you, I am mad at you for hurting me. I want to tell you that I am glad you are in jail and you cannot hurt me anymore. If I ever, or when I see you again I will tell Mommy and call the cops, and I will make a mad face at you. Ha, ha, you thought I would never tell but now everyone knows. I also know you did this to my sister, too. It is signed by a little girl.

Letters such as this help victims, children cope with the crime that has been committed against them. These Children's Assessment Centers all over the country, God bless them, are doing a work to save America's greatest resource, our children. VOCA funds go to these centers, and without this funding, many of these centers would not be able to open the doors.

So, Mr. Speaker, I urge my colleagues in the House on both sides of the aisle to join me and the other 50 Members and counting who have signed a letter to the Committee on Appropriations chairman to save the VOCA funds.

Grassroots victims organizations across the Nation have been flooding congressional offices with phone calls and pleading for their representatives to save VOCA and for them to sign this letter that 50 have already signed. Fourteen national victim advocacy organizations have partnered in support of saving the crime victims fund. And they are, Mr. Speaker, these organizations that work victims: Justice Solutions, Incorporated; Mothers Against Drunk Driving; the National Alliance to End Sexual Violence; the National Association of Crime Victim Compensation Boards; the National Association of VOCA Assistance Administrators; the National Center For Victims of Crime; the National Children's Alliance; the National Coalition Against Domestic Violence; the National Crime Victim Research and Treatment Center; the National Network to End Domestic Violence; the National Organization for Victim Assistance; National Organization of Parents of Murdered Children; the Pennsylvania Coalition Against Rape; the Victim Assistance Legal Organization; and even way down in Midland, Texas, the Midland County, Texas, Sheriff's Crisis Intervention Center which has 35 volunteers. That organization will cease to exist if these funds are cut.

We all are concerned, Mr. Speaker, about the budget, about the deficit, about Federal spending. We all are in agreement about that, but maybe we need to reprioritize how we spend money. Maybe we should reconsider some of the foreign giveaway programs that this country is involved in, giving away money, and maybe we should think about victims here at home, remembering that the victims fund, VOCA, is not funded by taxpayers, but it is funded by criminals, as it ought to be, and they should continue to pay, pay for the crimes that they have brought upon the good people of our community.

Mr. Speaker, victims pay. They always pay. They continue to pay after the crime is over with, and we need to be compassionate and sensitive about them because the same Constitution that protects defendants of crime protects victims of crime as well.

Lastly, Mr. Speaker, I would like to talk about a person that I never met. He was an individual that did not have much going for him. He was born the same year that my son Kurt was born in the 1970s, and my son now is a big, old strapping kid in his twenties, and sometimes when I look at Kurt, I think about Kevin Wanstrath and the people I prosecuted that killed him.

Kevin Wanstrath was born in Mississippi. His mother did not want him. So she dumped him off to some charity. The charity, though, found a home for him, and the home was in Houston, Texas. The people who adopted Kevin Wanstrath, John and Diana Wanstrath, could not have children of their own. They were middle-class folks, and so they found Kevin, they adopted him, and they made him their son, and they were happy as a family could be.

But unbeknownst to this family, Diana Wanstrath's brother, Markum was his name, was plotting to kill this entire family. While he was plotting to kill the family, Markum Duffsmith, along with three other henchmen years before, had murdered Markum's own mother, and because of the way that crime was committed, he was able to convince law enforcement that it was a suicide, and he was not prosecuted until after he had murdered his nephew Kevin.

He collected the estate of his mother, and he spent it, and when he was through spending the money, he needed more money. So he then plotted this other murder, the murder of John Wanstrath, Diana Wanstrath and Kevin Wanstrath.

One evening while John and Diana were watching Channel 13 news in Houston, Texas, two people that Markum had hired, posing to be real estate agents, forced their way into the Wanstrath home and first shot John, then shot Diana and then, while Kevin Wanstrath, a 14-month-old baby, was asleep in his baby bed curled up to his favorite Teddy bear, clothed in blue terry cloth pajamas, dreaming about whatever those babies dream about, he

was murdered. He was shot in the head. He was sacrificed on the altar of greed.

□ 1845

Because of the work of a couple of Houston police officers, all those killers were brought to justice. Two of them received the death penalty and were later executed, and two received long prison terms.

Over the years, I have kept a photograph of Kevin Wanstra on my desk, as a prosecutor, as a judge for 22 years, and now as a fortunate Member of Congress representing the Second Congressional District of Texas. You see, Kevin Wanstra never made it to his second birthday. He was denied the right to live. He was a victim of criminal conduct.

Our Nation, Mr. Speaker, needs to be concerned about the Kevin Wanstras in our culture because they have the right to live as well. Kevin Wanstra will never grow up, he will never be in the backyard playing catch with his father, will never play football, never have a date, never get married, all because he was chosen to be prey, the victim of a crime.

So our Nation, Mr. Speaker, during this Victims' Rights Week, needs to be determined. It needs to be reinforced as a culture that we will not stand idly by while people are maimed and hurt in our culture, that we will support them, that we will be compassionate toward them, and we will make sure that criminals who commit crimes against them will pay, and they will financially pay in the funding of VOCA.

Mr. Speaker, we as a people will never be judged the way we treat the rich, the famous, the important, the wealthy, the special folks. We will be judged by the way we treat the innocent, the weak, the elderly, the children. I hope when we are judged, Mr. Speaker, we are judged favorably.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. SOLIS (at the request of Ms. PELOSI) for today on account of official business.

Ms. BERKLEY (at the request of Ms. PELOSI) for today.

SPECIAL ORDERS GRANTED

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

(The following Members (at the request of Mr. SCHIFF) to revise and extend their remarks and include extraneous material:)

Mr. SCHIFF, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Ms. WATSON, for 5 minutes, today.

Ms. CORRINE BROWN of Florida, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. PRICE of Georgia) to revise and extend their remarks and include extraneous material:)

Ms. ROS-LEHTINEN, for 5 minutes, April 18 and 19.

Mr. ROHRABACHER, for 5 minutes, today.

Mr. PRICE of Georgia, for 5 minutes, today.

ENROLLED BILL SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1134. An act to amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 256. An act to amend title 11 of the United States Code, and for other purposes.

ADJOURNMENT

Mr. POE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 48 minutes p.m.), under its previous order, the House adjourned until Monday, April 18, 2005, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

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

1594. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Acetamiprid; Pesticide Tolerance [OPP-2005-0029; FRL-7705-7] received April 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1595. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Buprofezin; Pesticide Tolerance [OPP-2004-0412; FRL-7691-8] received April 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1596. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Paecilomyces Iilacinus strain 251; Exemption from the Requirement of a Tolerance [OPP-2004-0397; FRL-7708-4] received April 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1597. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Triflumizole; Pesticide Tolerance for Emergency Exemptions [OPP-2005-0054; FRL-7701-6] received April 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1598. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Bacillus thuringiensis Modified Cry3A Protein (mCry3A) and the Genetic Material Necessary for its Production in Corn; Temporary Exemption From the Requirement of a Tolerance [OPP-2005-0073; FRL-7704-4] received March 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1599. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Texas; Low-Emission Diesel Fuel Compliance Date [R06-OAR-2005-TX-0020; FRL-7895-9] received April 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1600. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Texas; Locally Enforced Idling Prohibition Rule [R06-OAR-2005-TX-0007; FRL-7896-7] received April 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1601. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Coke Oven Batteries [OAR-2003-0051; FRL-7895-8] (RIN: 2060-AJ96) received April 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1602. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Implementation Plans; State of Iowa [R07-OAR-IA-0001; FRL-7892-1] received March 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1603. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; State of Maryland; Revised Definition of Volatile Organic Compounds [R03-OAR-2005-MD-0003; FRL-7891-3] received March 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1604. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Nebraska [R07-OAR-2005-NE-0001; FRL-7894-1] received March 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1605. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; District of Columbia, Maryland, Virginia, and Pennsylvania; Revised Carbon Monoxide Maintenance Plans for Washington Metropolitan, Baltimore, and Philadelphia Areas [RME Docket Number R03-OAR-2005-DC-0001, R03-OAR-2005-MD-0001, R03-OAR-2005-PA-0010; FRL-7890-9; FRL-7894-4] received March 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1606. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval of Revisions and Notice of Resolution of Deficiency for Clean Air Act Operating Permit Program in Texas [TX-154-2-7609; FRL-7892-6] received March 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1607. A letter from the Principal Deputy Associate Administrator, Environmental

Protection Agency, transmitting the Agency's final rule — Federal Implementation Plans under the Clean Air Act for Indian Reservations in Idaho, Oregon and Washington [Docket No. OAR-2004-0067; FRL-7893-8] (RIN: 2012-AA01) received March 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1608. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Limited Approval and Promulgation of Implementation Plans; Texas; Excess Emissions During Startup, Shutdown and Malfunction Activities [TX-162-1-7598; FRL-7892-7] received March 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1609. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting Copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

1610. A letter from the Solicitor, Federal Labor Relations Authority, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1611. A letter from the Secretary, Postal Rate Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 2004, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

1612. A letter from the Executive Secretary and Chief of Staff, U.S. Agency for International Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1613. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737-600, -700, -700C, -800, and -900 Series Airplanes [Docket No. FAA-2004-19022; Directorate Identifer 2004-2004-NM-122-AD] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1614. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class D and E Airspace; Olive Branch, MS and Amendment of Class E Airspace; Memphis, TN [Docket No. FAA-2003-16534; Airspace Docket No. 03-ASO-19] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1615. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce Deutschland Ltd. & Co KG (formerly Rolls-Royce plc), Model TAY 611-8, 620-15, 650-15, and 651-54 Turbofan Engines [Docket No. 2002-NE-37-AD; Amendment 39-13962; AD 2005-03-06] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1616. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Revocation of Class D Airspace; South Lake Tahoe, CA [Docket No. FAA-2004-19478; Airspace Docket No. 04-AWP-10] received March 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1617. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Nevada, MO [Docket No. FAA-2005-20062; Airspace Docket No. 05-ACE-4] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1618. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Raytheon Aircraft Company 90, 99, 100, 200, and 300 Series Airplanes [Docket No. 2000-CE-38-AD; Amendment 39-13928; AD 2005-01-04] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1619. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Ozark, MO [Docket No. FAA-2005-20061; Airspace Docket No. 05-ACE-3] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1620. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 Series Airplanes [Docket No. FAA-2004-19681; Directorate Identifier 2003-NM-184-AD; Amendment 39-13999; AD 2005-05-10] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1621. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bell Helicopter Textron Canada Model 407 Helicopters [Docket No. 2004-SW-07-AD; Amendment 39-13963; AD 2005-03-07] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1622. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 767-200 and -300 Series Airplanes [Docket No. FAA-2004-19446; Directorate Identifier 2004-NM-130-AD; Amendment 39-13967; AD 2005-03-11] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1623. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bell Helicopter Textron, A Division of Textron Canada Model 222, 222B, 222U and 230 Helicopters [Docket No. 2003-SW-23-AD; Amendment 39-13966; AD 2005-03-10] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1624. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 Series Airplanes and Model Avro 146-RJ Series Airplanes [Docket No. FAA-2004-19765; Directorate Identifier 2002-NM-72-AD; Amendment 39-13971; AD 2005-03-15] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1625. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Raytheon Model DH.125, HS-125, and BH.125 Series Airplanes; BAe.125 Series 800A (C-29A and U-125) and 800B Series Airplanes; and Hawker 800 (including Variant U-125U) and 800XP Airplanes; Equipped with TFE731 Engines [Docket No. FAA-2004-19561; Directorate Identifier 2004-NM-50-AD; Amendment 39-13972; AD 2005-03-16] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1626. A letter from the Program Analyst. FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A330, A340-200, and A340-300 Series Airplanes [Docket No. 2003-NM-256-AD; Amendment 39-13968; AD 2005-03-12] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1627. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A300 B2 and B4 Series Airplanes [Docket No. 2003-NM-16-AD; Amendment 39-13970; AD 2005-03-14] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1628. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model EC 155B, EC155B1, SA-360C, SA-365C, SA-365C1, SA-365C2, SA-365N, SA-365N1, AS-365N2, AS 365 N3, and SA-366G1 Helicopters [Docket No. FAA-2005-20294; Directorate Identifier 2004-SW-39-AD; Amendment 39-13965; AD 2005-03-09] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1629. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model AS350B, BA, B1, B2, B3, C, D, D1, and EC130 B4 Helicopters [Docket No. FAA-2004-19038; Directorate Identifier 2004-SW-24-AD; Amendment 39-13964; AD 2005-03-08] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1630. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Short Brothers Model SD3-60 Series Airplanes [Docket No. FAA-2005-20108; Directorate Identifier 2005-NM-006-AD; Amendment 39-13985; AD 2005-04-13] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1631. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Saab SF340A and SAAB 340B Series Airplanes [Docket No. FAA-2004-19752; Directorate Identifier 2004-NM-170-AD; Amendment 39-13984; AD 2005-04-12] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1632. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Hartzell Propeller Inc. Model HC-B3TN-5( )T10282( ) Propellers [Docket No. 2003-NE-50-AD; Amendment 39-13980; AD 2005-04-08] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1633. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company CT58 Series and Surplus Military T58 Series Turboshaft Engines [Docket No. 2003-NE-59-AD; Amendment 39-13982; AD 2005-04-10] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1634. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model

CL-600-2B19 (Regional Jet Series 100 & 440) Airplanes and Model CL-600-1A11 (CL-600), CL-600-2A12 (CL-601), and CL-600-2B16 (CL-601-3A, CL-601-3R, and CL-604) Series Airplanes [Docket No. FAA-2005-20276; Directorate Identifier 2005-NM-023-AD; Amendment 39-13979; AD 2005-04-07] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1635. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135 and -145 Series Airplanes [Docket No. 2003-NM-237-AD; Amendment 39-13977; AD 2005-04-05] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1636. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 707-100, -100B, -300, -300B (Including -320B Variant), -300C, and -E3A (Military) Series Airplanes; Model 720 and 720B Series Airplanes; Model 737-100, -200, -200C, -300, -400, and -500 Series Airplanes; and Model 747 Airplanes [Docket No. FAA-2004-18759; Directorate Identifier 2003-NM-280-AD; Amendment 39-13973; AD 2005-04-01] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1637. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model CL-2B19 (Regional Jet Series 100 & 440) Airplanes [Docket No. FAA-2004-19763; Directorate Identifier 2004-NM-187-AD; Amendment 39-13969; AD 2005-03-13] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1638. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Gulfstream Model GV-SP Series Airplanes [Docket No. FAA-2005-20280; Directorate Identifier 2004-NM-254-AD; Amendment 39-13978; AD 2005-04-06] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1639. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-400, -400D, and -400F Series Airplanes [Docket No. FAA-2004-18999; Directorate Identifier 2003-NM-259-AD; Amendment 39-13975; AD 2005-04-03] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1640. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes [Docket No. FAA-2004-19447; Directorate Identifier 2004-NM-97-AD; Amendment 39-13976; AD 2005-04-04] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1641. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Dassault Model Falcon 10 Series Airplanes [Docket No. FAA-2004-19177; Directorate Identifier 2002-NM-202-AD; Amendment 39-13974; AD 2005-04-02] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1642. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bell Helicopter Textron Canada Model 222, 222B, 222U, 230, and 430 Helicopters [Docket No. FAA-2005-20107; Directorate Identifier 2005-SW-02-AD; Amendment 39-13981; AD 2005-04-09] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1643. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Revision of Class E Airspace; Point Lay, AK [Docket No. FAA-2004-19813; Airspace Docket No. 04-AAL-26] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1644. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Revision of Class E Airspace; Ketchikan, AK [Docket No. FAA-2004-19415; Airspace Docket No. 04-AAL-15] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1645. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Annette Island, Metlakatla, AK [Docket No. FAA-2004-19357; Airspace Docket No. 04-AAL-17] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1646. A letter from the Program Analyst. FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Badami, AK [Docket No. FAA-2004-19358; Airspace Docket No. 04-AAL-18] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1647. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Red Dog, AK [Docket No. FAA-2004-19362; Airspace Docket No. 04-AAL-22] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1648. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Haines, AK [Docket No. FAA-2004-19359; Airspace Docket No. 04-AAL-19] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1649. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 757-200 Series Airplanes [Docket No. FAA-2004-19943; Directorate Identifier 2004-NM-76-AD; Amendment 39-14010; AD 2005-06-02] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1650. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Kulik Lake, AK [Docket No. FAA-2004-19360; Airspace Docket No. 04-AAL-20] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1651. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Coffeyville, KS [Docket No. FAA-2004-19583; Airspace Docket No. 04-ACE-73] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1652. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Prospect Creek, AK [Docket No. FAA-2004-19361; Airspace Docket No. 04-AAL-21] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1653. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Seward, AK [Docket No. FAA-2004-19363; Airspace Docket No. 04-AAL-23] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1654. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E2 Airspace; Lawrence, KS [Docket No. FAA-2004-19578; Airspace Docket No. 04-ACE-68] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1655. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Restricted Areas 5103A, 5103B, and 5103C, and Revocation of Restricted Area 5103D; McGregor, NM [Docket No. FAA-2004-17773; Airspace Docket No. 04-ASW-11] (RIN: 2120-AA66) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1656. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Independence, KS [Docket No. FAA-2004-19577; Airspace Docket No. 04-ACE-67] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1657. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E2 Airspace; Wichita Colonel James Jabara Airport, KS [Docket No. FAA-2004-19504; Airspace Docket No. 04-ACE-64] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1658. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Lexington, MO [Docket No. FAA-2004-19575; Airspace Docket No. 04-ACE-65] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1659. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Boone, IA [Docket No. FAA-2004-19576; Airspace Docket No. 04-ACE-66] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1660. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Rolla/Vichy, MO [Docket No. FAA-2005-20059; Airspace Docket No. 05-ACE-1] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1661. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Rolla, MO [Docket No. FAA-2005-20060; Airspace Docket NO. 05-ACE-2] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1662. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Revision of Colored Federal Airway; AK [Docket No. FAA-2004-18734; Airspace Docket No. 03-AAL-03] (RIN: 2120-AA66) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1663. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of VOR Federal Airway V-623 [Docket No. FAA-2004-19422; Airspace Docket No. 03-AEA-11] (RIN: 2120-AA66) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

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. OXLEY: Committee on Financial Services. H.R. 804. A bill to exclude from consideration as income certain payments under the national flood insurance program (Rept. 109–44). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

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

By Mr. TOM DAVIS of Virginia (for himself, Ms. NORTON, and Mr. WAXMAN):

H.R. 1629. A bill to amend the District of Columbia Home Rule Act to provide the District of Columbia with autonomy over its budgets, and for other purposes; to the Committee on Government Reform, and in addition to the Committees on Appropriations, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. LATOURETTE, and Ms. CORRINE BROWN of Florida):

H.R. 1630. A bill to authorize appropriations for the benefit of Amtrak for fiscal years 2006 through 2008, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. LATOURETTE, and Ms. CORRINE BROWN of Florida):

H.R. 1631. A bill to provide for the financing of high-speed rail infrastructure, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGLISH of Pennsylvania (for himself, Mr. CARDIN, Ms. HART, Mr. WILSON of South Carolina, Mr. TOWNS, Mr. SESSIONS, Mr. PICKERING, Mr. PETERSON of Minnesota, Mr. CLYBURN, Mr. MCNULTY, Mr. ISRAEL, and Mr. CUMMINGS):

H.R. 1632. A bill to amend title XVIII of the Social Security Act to improve patient access to, and utilization of, the colorectal cancer screening benefit under the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NEY (for himself, Mr. CAPUANO, Mr. SMITH of New Jersey, Mr. DAVIS of Illinois, Mr. PALLONE, Mr. WELDON of Florida, Mrs. CHRISTENSEN, Mr. ALEXANDER, Mrs. WILSON of New Mexico, Mr. BRADLEY of New Hampshire, Mrs. CAPITO, Mr. MCGOVERN, Mr. FRANK of Massachusetts, Mr. TAYLOR of North Carolina, Mr. ENGLISH of Pennsylvania, and Mr. RENZI):

H.R. 1633. A bill to amend the Public Health Service Act to extend Federal Tort Claims Act coverage to all federally qualified community health centers; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WAMP (for himself, Mr. UDALL of Colorado, Mr. BOEHLERT, Mr. MORAN of Virginia, Mr. MCGOVERN, Mr. FRANK of Massachusetts, Mr. SCHIFF, and Mrs. BONO):

H.R. 1634. A bill to amend the Internal Revenue Code of 1986 to expand workplace health incentives by equalizing the tax consequences of employee athletic facility use; to the Committee on Ways and Means.

By Mr. MCCOTTER (for himself, Mrs. MILLER of Michigan, Mr. PEARCE, Mr. MANZULLO, Mr. SWEENEY, Mr. ENGLISH of Pennsylvania, Mr. RENZI, Mr. REYES, Mr. SULLIVAN, Mr. SHUSTER, and Mr. JONES of North Carolina):

H.R. 1635. A bill to amend the Internal Revenue Code of 1986 to allow employers a credit against income tax for hiring military service personnel who served in a combat zone or a hazardous duty area; to the Committee on Ways and Means.

By Mr. FARR (for himself, Mr. SHAYS, Mr. ABERCROMBIE, Mr. ANDREWS, Mrs. CAPPS, Mr. CASE, Mr. GRIJALVA, Mr. HOLT, Mr. HONDA, Mr. LANTOS, Ms. LEE, Mr. MCGOVERN, Mr. GEORGE MILLER of California, Mr. MORAN of Virginia, Mr. PALLONE, Mrs. TAUSCHER, Mr. WEINER, Ms. WOOLSEY, Mr. THOMPSON of California, Mr. UDALL of New Mexico, Ms. CARSON, Mr. STARK, Ms. SCHAKOWSKY, Ms. ESHOO, Ms. DELAURO, and Ms. LINDA T. SÁNCHEZ of California):

H.R. 1636. A bill to establish national standards for discharges from cruise vessels into the waters of the United States, and for other purposes; to the Committee on Transportation and Infrastructure.

By Ms. EDDIE BERNICE JOHNSON of Texas (for herself, Mr. BAKER, Mr. CONYERS, Ms. CORRINE BROWN of Florida, Mr. NADLER, Mr. CUMMINGS, Mr. BLUMENAUER, Mr. MATHESON, Ms. MILLENDER-MCDONALD, Mr. MCINTYRE, Ms. NORTON, and Mr. FILNER):

H.R. 1637. A bill to improve intermodal transportation; to the Committee on Transportation and Infrastructure.

By Mr. GRAVES (for himself and Mr. BARROW):

H.R. 1638. A bill to reinstate regulation under the Commodity Exchange Act of futures contracts, swaps, and hybrid instruments involving natural gas, to require review and approval by the Commodity Futures Trading Commission of rules applicable to transactions involving natural gas, to provide for the reporting of large positions in natural gas, to provide for cash settlement for certain contracts of sale for future delivery of natural gas, to temporarily prohibit members of the Commodity Futures Trading Commission from going to work for organizations subject to regulation by the Commission, and for other purposes; to the Committee on Agriculture.

By Ms. DELAURO (for herself, Mr. EVANS, Ms. BORDALLO, Mr. GRIJALVA, Mr. OBERSTAR, Mr. FILNER, Mr. MCDERMOTT, Mr. CASE, Mrs. CAPPS, Mr. GUTIERREZ, Mrs. LOWEY, Mr. EMANUEL, Mr. LARSON of Connecticut, Ms. HOOLEY, Mr. STARK, Mr. KENNEDY of Rhode Island, Mr. SERRANO, Mr. HINCHEY, and Mr. SANDERS):

H.R. 1639. A bill to require pre- and post-deployment mental health screenings for members of the Armed Forces, and for other purposes; to the Committee on Armed Services.

By Mr. BARTON of Texas (for himself, Mr. HALL, Mr. UPTON, Mr. STEARNS, Mrs. CUBIN, Mr. SHIMKUS, Mr. PICKERING, Mr. BLUNT, Mr. BUYER, Mr. RADANOVICH, Mr. PITTS, Mr. TERRY, and Mr. ROGERS of Michigan):

H.R. 1640. A bill to ensure jobs for our future with secure and reliable energy; to the Committee on Energy and Commerce, and in addition to the Committees on Science, Resources, Education and the Workforce, Transportation and Infrastructure, Financial Services, and Agriculture, 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. FLAKE:

H.R. 1641. A bill to make the internal control requirements of the Sarbanes-Oxley Act of 2002 voluntary; to the Committee on Financial Services.

By Mr. FLAKE (for himself, Mr. GUTKNECHT, Mr. PENCE, Mr. HENSARLING, Mr. MARCHANT, Mr. WESTMORELAND, Mr. SAM JOHNSON of Texas, Mr. ROHRABACHER, Mr. TANCREDO, Mr. JONES of North Carolina, Mr. WILSON of South Carolina, Mr. HOSTETTLER, and Mr. MILLER of Florida):

H.R. 1642. A bill to prohibit Federal agencies from obligating funds for appropriations earmarks included only in congressional reports, and for other purposes; to the Committee on Government Reform, and in addition to the Committee on Rules, 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. FORD:

H.R. 1643. A bill to amend various banking laws to combat predatory lending, particularly in regards to low and moderate income individuals, and for other purposes; to the Committee on Financial Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FORTUÑO:

H.R. 1644. A bill to protect the critical aquifers and watersheds that serve as a principal water source for the Commonwealth of Puerto Rico, to protect the tropical forests of the Karst Region of the Commonwealth, and for other purposes; to the Committee on Resources.

By Mr. GERLACH (for himself, Mr. BRADY of Pennsylvania, Mr. HOLDEN,

Mr. PETERSON of Pennsylvania, Mr. PLATTS, Ms. HART, Mr. ENGLISH of Pennsylvania, and Mr. GENE GREEN of Texas):

H.R. 1645. A bill to provide financial assistance for the rehabilitation of the Benjamin Franklin National Memorial in Philadelphia, Pennsylvania, and the development of an exhibit to commemorate the 300th anniversary of the birth of Benjamin Franklin; to the Committee on Resources.

By Ms. HARMAN (for herself, Mr. WELDON of Pennsylvania, Mr. FRELINGHUYSEN, Mrs. TAUSCHER, Mr. SHAYS, Mr. ISRAEL, Mr. WILSON of South Carolina, Ms. LORETTA SANCHEZ of California, Mr. FORD, Mr. PASCRELL, Ms. MILLENDER-MCDONALD, Mrs. CHRISTENSEN, Mr. ETHERIDGE, Ms. NORTON, Mr. BERMAN, Mr. GEORGE MILLER of California, Mr. ANDREWS, Mrs. LOWEY, Mr. ABERCROMBIE, and Ms. LINDA T. SÁNCHEZ of California):

H.R. 1646. A bill to provide for the expedited and increased assignment of spectrum for public safety purposes; to the Committee on Energy and Commerce.

By Mr. HASTINGS of Florida (for himself, Mr. HONDA, Mr. ABERCROMBIE, Ms. LEE, Mr. JACKSON of Illinois, Mrs. CHRISTENSEN, Mr. STARK, and Mr. JEFFERSON):

H.R. 1647. A bill to require that general Federal elections be held during the first consecutive Saturday and Sunday in November, and for other purposes; to the Committee on House Administration.

By Mr. HASTINGS of Florida (for himself, Mr. OWENS, Mrs. CHRISTENSEN, Mr. SERRANO, Ms. JACKSON-LEE of Texas, Mr. MCDERMOTT, Mr. NADLER, Ms. LEE, Mr. GRIJALVA, Ms. CORRINE BROWN of Florida, Mr. SANDERS, Mr. HONDA, Mr. MENENDEZ, Mr. WEXLER, Mr. RANGEL, Mr. PAYNE, Mr. MARKEY, Ms. DEGETTE, Mr. DOGGETT, Mr. STARK, Mr. JACKSON of Illinois, Ms. NORTON, Mr. HINCHEY, Mr. PALLONE, Mr. KUCINICH, Mr. MCGOVERN, Mrs. JONES of Ohio, Mr. CONYERS, Ms. SOLIS, Ms. WASSERMAN SCHULTZ, and Mr. MEEK of Florida):

H.R. 1648. A bill to require Executive Order 12898 to remain in force until changed by law, to expand the definition of environmental justice, to direct each Federal agency to establish an Environmental Justice Office, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Resources, 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. HOLT (for himself, Mr. SMITH of New Jersey, Mr. PAYNE, Mr. SAXTON, Mr. OWENS, Mr. ANDREWS, Mr. TOWNS, Mr. MENENDEZ, Mr. JEFFERSON, and Mr. PALLONE):

H.R. 1649. A bill to amend title XIX of the Social Security Act to require staff working with developmentally disabled individuals to call emergency services in the event of a life-threatening situation; to the Committee on Energy and Commerce.

By Mrs. JOHNSON of Connecticut (for herself, Mr. CASTLE, Mr. BOSWELL, Mrs. CHRISTENSEN, Ms. LEE, Mr. RAMSTAD, Ms. LORETTA SANCHEZ of California, Mr. SHAYS, and Mr. SIMMONS):

H.R. 1650. A bill to amend the Internal Revenue Code of 1986 to allow tax credits to holders of stem cell research bonds; to the Committee on Ways and Means.

By Mr. JONES of North Carolina (for himself, Mr. KANJORSKI, Ms. HOOLEY, Mrs. KELLY, Mr. HENSARLING, and Mr. SAM JOHNSON of Texas):

H.R. 1651. A bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes; to the Committee on Financial Services.

By Mrs. MALONEY (for herself, Mr. BROWN of Ohio, Mr. DEFAZIO, Ms. WASSERMAN SCHULTZ, Mrs. JONES of Ohio, Mr. SHAYS, Mr. GEORGE MILLER of California, Mr. GUTIERREZ, Ms. BALDWIN, Mr. MORAN of Virginia, Mr. CROWLEY, Mr. KENNEDY of Rhode Island, Mrs. CAPPS, Mr. MCGOVERN, Ms. CARSON, Mrs. DAVIS of California, Mr. BRADY of Pennsylvania, and Ms. ZOE LOFGREN of California):

H.R. 1652. A bill to establish certain duties for pharmacies when pharmacists employed by the pharmacies refuse to fill valid prescriptions for drugs or devices on the basis of personal beliefs, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MARKEY:

H.R. 1653. A bill to prohibit the transfer of personal information to any person outside the United States, without notice and consent, and for other purposes; to the Committee on Energy and Commerce.

By Miss MCMORRIS (for herself, Mr. MCDERMOTT, Mr. HASTINGS of Washington, Mr. DICKS, Mr. SMITH of Washington, Mr. REICHERT, Mr. LARSEN of Washington, Mr. INSLEE, Mr. BAIRD, and Mr. YOUNG of Alaska):

H.R. 1654. A bill to provide for the establishment of demonstration programs to address the shortages of health care professionals in rural areas, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MICHAUD (for himself, Mr. ALLEN, Mr. BERRY, Mr. BROWN of Ohio, Mr. CASE, Mr. CROWLEY, Ms. DELAURO, Mr. FRANK of Massachusetts, Mr. GRIJALVA, Mr. HINCHEY, Mr. HOLDEN, Mr. LARSON of Connecticut, Mr. MEEHAN, Mr. MCDERMOTT, Mr. PALLONE, Mr. REYES, Mr. ROSS, Mr. SANDERS, Mr. STARK, Ms. WOOLSEY, and Mr. WYNN):

H.R. 1655. A bill to establish an America Rx program to establish fairer pricing for prescription drugs for individuals without access to prescription drugs at discounted prices; to the Committee on Energy and Commerce.

By Mr. ORTIZ:

H.R. 1656. A bill to correct maps depicting Unit T-10 of the John H. Chafee Coastal Barrier Resources System; to the Committee on Resources.

By Mr. PAUL:

H.R. 1657. A bill to ensure financial regulations do not harm economic competitiveness, nor deprive Americans of due process of law, by repealing provisions of Federal law that hold corporate chief executive officers criminally liable for the content and quality of their companies' financial report, even when the chief executive officers had no intention to engage in criminal behavior, and had taken all reasonable steps to assure the accuracy of the statement; to the Committee on Financial Services.

By Mr. PAUL:

H.R. 1658. A bill to ensure that the courts interpret the Constitution in the manner that the Framers intended; to the Committee on the Judiciary.

By Mr. RENZI (for himself, Mr. MATHESON, and Mr. UDALL of New Mexico):

H.R. 1659. A bill to fulfill the United States Government's trust responsibility to serve the educational needs of the Navajo people; to the Committee on Education and the Workforce.

By Mr. RUSH:

H.R. 1660. A bill to amend the Consumer Credit Protection Act and other banking laws to protect consumers who avail themselves of payday loans from usurious interest rates and exorbitant fees, perpetual debt, the use of criminal actions to collect debts, and other unfair practices by payday lenders, to encourage the States to license and closely regulate payday lenders, and for other purposes; to the Committee on Financial Services.

By Mr. RUSH:

H.R. 1661. A bill to amend the Small Business Act and the Communications Act of 1934 to increase participation by small businesses in spectrum auctions conducted by the Federal Communications Commission; to the Committee on Small Business, 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. SCHIFF (for himself and Ms. ROS-LEHTINEN):

H.R. 1662. A bill to require an annual Department of State report on information relating to the promotion of religious freedom, democracy, and human rights in foreign countries by individuals, nongovernmental organizations, and the media in those countries, and for other purposes; to the Committee on International Relations.

By Mr. SHAW (for himself, Mr. JEFFERSON, Mr. FOLEY, Mr. FORD, Mr. ENGLISH of Pennsylvania, Mr. BOEHNER, Mr. BLUNT, Mr. ABERCROMBIE, Mr. SIMMONS, Mr. HOLT, and Mr. GARY G. MILLER of California):

H.R. 1663. A bill to amend the Internal Revenue Code of 1986 to permanently extend the 15-year recovery period for the depreciation of certain leasehold improvements; to the Committee on Ways and Means.

By Mr. SIMMONS (for himself, Mrs. MALONEY, Mr. GRIJALVA, Mr. ABERCROMBIE, Mr. PAUL, Mr. HOLDEN, Mrs. JOHNSON of Connecticut, Mr. SHIMKUS, Mr. MCGOVERN, Mr. GERLACH, Mr. MCHUGH, Ms. HART, Mr. MICHAUD, Mr. MCNULTY, Mr. PLATTS, Ms. SCHAKOWSKY, and Mr. TIERNEY):

H.R. 1664. A bill to ensure that amounts in the Victims of Crime Fund are fully obligated; to the Committee on the Judiciary.

By Ms. SLAUGHTER (for herself, Mr. DUNCAN, Ms. WATSON, Mr. HINCHEY, Mr. MCDERMOTT, Ms. LEE, Ms. CARSON, Mr. GRIJALVA, Mr. KUCINICH, Mr. OWENS, Mr. PALLONE, Ms. SCHAKOWSKY, Mrs. JONES of Ohio, Mrs. JO ANN DAVIS of Virginia, and Mr. GEORGE MILLER of California):

H.R. 1665. A bill to shorten the term of broadcasting licenses under the Communications Act of 1934 from 8 to 3 years, to provide better public access to broadcasters' public interest issues and programs lists and children's programming reports, and for other purposes; to the Committee on Energy and Commerce.

By Mrs. TAUSCHER (for herself, Mr. SKELTON, Mr. HOYER, Mr. LARSON of Connecticut, Mr. EDWARDS, Mr. TAYLOR of Mississippi, Mr. MCINTYRE, Mr. KIND, Mr. DAVIS of Alabama, Mr. GEORGE MILLER of California, Mr. SMITH of Washington, Ms. MILLENDER-MCDONALD, Mr. BISHOP of Georgia, Mr. ETHERIDGE, Mr. MEEK of Florida, Mr. EVANS, Mr. REYES, Mr. BUTTERFIELD, Mr. SCOTT of Georgia, Mr. CARDOZA, Mr. TANNER, Mr. COOPER, Mr. CRAMER, Mr. BOSWELL, Mr.

PETERSON of Minnesota, Mr. MELANCON, Ms. HERSETH, Mr. ORTIZ, Mr. ANDREWS, Mr. MEEHAN, Mr. ABERCROMBIE, Mr. ISRAEL, Mr. ACKERMAN, Mr. DICKS, Mrs. DAVIS of California, and Mr. SPRATT):

H.R. 1666. A bill to amend title 10, United States Code, to provide a temporary five-year increase in the minimum end-strength levels for active-duty personnel for the Armed Forces, to increase the number of Special Operations Forces, and for other purposes; to the Committee on Armed Services.

By Mr. UDALL of New Mexico:

H.R. 1667. A bill to amend the Family and Medical Leave Act of 1993 and title 5, United States Code, to provide entitlement to leave to eligible employees whose spouse, son, daughter, or parent is a member of the Armed Forces who is serving on active duty in support of a contingency operation or who is notified of an impending call or order to active duty in support of a contingency operation, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committees on Government Reform, and House Administration, 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. WAXMAN (for himself, Mr. PALLONE, Mr. DINGELL, Mr. BROWN of Ohio, Mr. RANGEL, Mr. STARK, Mr. MARKEY, Mrs. CAPPS, Mr. CONYERS, Mr. RUSH, Mr. DOGGETT, Ms. SCHAKOWSKY, Mr. MEEK of Florida, Ms. MILLENDER-MCDONALD, Ms. SCHWARTZ of Pennsylvania, Mr. GENE GREEN of Texas, and Mr. ALLEN):

H.R. 1668. A bill to amend titles XIX and XXI of the Social Security Act to ensure that every uninsured child in America has health insurance coverage, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and 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. WEINER (for himself and Mr. MORAN of Kansas):

H.R. 1669. A bill to ensure integrity in the operation of pharmacy benefit managers; to the Committee on Energy and Commerce.

By Mr. WEINER (for himself, Mr. CROWLEY, and Mr. BLUMENAUER):

H.R. 1670. A bill to prohibit United States military assistance for Egypt and to express the sense of Congress that the amount of military assistance that would have been provided for Egypt for a fiscal year should be provided in the form of economic support fund assistance; to the Committee on International Relations.

By Mr. WEINER (for himself and Mr. MORAN of Kansas):

H.R. 1671. A bill to ensure and foster continued patient safety and quality of care by making the antitrust laws apply to negotiations between groups of independent pharmacies and health plans and health insurance issuers in the same manner as such laws apply to collective bargaining by labor organizations under the National Labor Relations Act; to the Committee on the Judiciary.

By Ms. WOOLSEY:

H.R. 1672. A bill to provide protection and victim services to children abducted by family members; to the Committee on the Judiciary.

By Mr. SNYDER (for himself and Mr. SHAYS):

H.J. Res. 42. A joint resolution proposing an amendment to the Constitution of the United States to permit persons who are not natural-born citizens of the United States, but who have been citizens of the United States for at least 35 years, to be eligible to hold the offices of President and Vice President; to the Committee on the Judiciary.

By Mr. PAUL (for himself, Mr. GOODE, Mr. SAM JOHNSON of Texas, Mr. FLAKE, and Mr. MANZULLO):

H. Con. Res. 132. Concurrent resolution expressing the sense of the Congress that the United States should formally withdraw its membership from the United Nations Educational, Scientific, and Cultural Organization (UNESCO); to the Committee on International Relations.

By Mr. SPRATT (for himself, Mr. LEACH, Mr. MARKEY, Mr. SKELTON, Mr. SHAYS, and Mrs. TAUSCHER):

H. Con. Res. 133. Concurrent resolution stating the policy of the Congress concerning actions to support the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) on the occasion of the Seventh NPT Review Conference; to the Committee on International Relations.

By Ms. PELOSI:

H. Res. 213. A resolution raising a question of the privileges of the House.

By Mr. KING of Iowa (for himself, Mr. CHABOT, Mr. BARTLETT of Maryland, Mr. NORWOOD, Mr. PITTS, Mr. WESTMORELAND, Mrs. BLACKBURN, Ms. FOXX, Mr. GINGREY, Mr. HOSTETTLER, Mr. GOODE, and Mr. ALEXANDER):

H. Res. 214. A resolution directing the Speaker of the House of Representatives to provide for the display of the Ten Commandments in the chamber of the House of Representatives if the Supreme Court of the United States rules against religious freedom by holding that the display of the Ten Commandments in public places by State and local governments constitutes a violation of the establishment clause of the first amendment to the Constitution of the United States; to the Committee on House Administration.

By Mr. PRICE of Georgia:

H. Res. 215. A resolution recognizing the need to move the Nation's current health care delivery system toward a defined contribution system; to the Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCHWARZ of Michigan (for himself, Mr. DINGELL, Mr. FORD, Mr. KILDEE, Mr. CONYERS, Mr. EHLERS, Ms. KAPTUR, Mr. LEVIN, Mr. PRICE of Georgia, and Mr. UPTON):

H. Res. 216. A resolution to honor the late playwright Arthur Miller and the University of Michigan for its intention of building a theatre in his name; to the Committee on Education and the Workforce.

By Mr. WEXLER (for himself and Ms. GINNY BROWN-WAITE of Florida):

H. Res. 217. A resolution supporting the rights of individuals to make medical decisions as guaranteed by the Fourteenth Amendment of the Constitution and encouraging all Americans to set forth their wishes in living wills that designate health care surrogates and in other advance directives; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

MEMORIALS

Under clause 3 of rule XII,

18. The SPEAKER presented a memorial of the House of Representatives of the State of Ohio, relative to House Resolution No. 16 supporting the Defense Supply Center Columbus, and notice of joining ''Team DSCC''; to the Committee on Armed Services.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. FORTUÑO introduced a bill (H.R. 1673) for the relief of Laura Maldonado Caetani; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

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

H.R. 11: Mr. MCCOTTER, Mr. GORDON, and Mr. JINDAL.

H.R. 21: Mr. GILCHREST.

H.R. 22: Mr. SOUDER, Mr. BISHOP of New York, Mr. ISSA, Mr. GUTIERREZ, and Mr. WELLER.

H.R. 34: Mr. BOREN, Mr. GRIJALVA, Mr. CARDOZA, and Mr. SHAW.

H.R. 36: Mr. POMEROY.

H.R. 64: Mr. ISTOOK.

H.R. 111: Mr. ADERHOLT, Mr. BERRY, and Mr. WELDON of Pennsylvania.

H.R. 112: Mr. DEFAZIO and Mr. BERMAN.

H.R. 136: Mr. ISTOOK and Mr. GALLEGLY.

H.R. 156: Mr. EMANUEL and Mr. OWENS.

H.R. 161: Mr. PAYNE and Mr. OWENS.

H.R. 162: Mr. OWENS, Mr. TOWNS, and Mr. PAYNE.

H.R. 164: Mr. CONYERS, Mr. JONES of Ohio, and Ms. LEE.

H.R. 166: Mr. WYNN, Mr. GRIJALVA, Mr. OWENS, Mr. CASE, Ms. MOORE of Wisconsin, Mr. CUMMINGS, and Mr. PAYNE.

H.R. 175: Mr. RUPPERSBERGER, Mr. PAYNE, and Mr. OWENS.

H.R. 206: Mr. CARDOZA.

H.R. 211: Mr. YOUNG of Alaska.

H.R. 230: Ms. ZOE LOFGREN of California.

H.R. 278: Mrs. MYRICK.

H.R. 282: Mr. INGLIS of South Carolina, Mr. BRADLEY of New Hampshire, Mr. RUSH, Mrs. MALONEY, Mr. FILNER, Mr. KENNEDY of Minnesota, Mr. FITZPATRICK of Pennsylvania, Mrs. DRAKE, and Ms. HARMAN.

H.R. 303: Ms. LEE, Mr. ISRAEL, Mr. CARDOZA, Mr. MCNULTY, Mr. YOUNG of Florida, Mr. LEWIS of Georgia, Mr. KOLBE, Mr. AL GREEN of Texas, and Mr. MCCOTTER.

H.R. 311: Mr. JACKSON of Illinois, Mr. WEXLER, Mr. KOLBE, and Mr. TAYLOR of Mississippi.

H.R. 341: Mr. SMITH of Washington and Mr. NEY.

H.R. 356: Mr. RYAN of Wisconsin and Mr. SHADEGG.

H.R. 376: Mr. AL GREEN of Texas, Mr. NEAL of Massachusetts, Mr. PALLONE, and Mr. LARSON of Connecticut.

H.R. 377: Mr. CARDOZA.

H.R. 389: Mr. YOUNG of Florida.

H.R. 427: Mr. HASTINGS of Florida.

H.R. 460: Mr. MENENDEZ.

H.R. 463: Mr. CARDOZA.

H.R. 478: Mr. MCDERMOTT, Mr. CONYERS, Mr. ABERCROMBIE, Ms. JACKSON-LEE of Texas, Mr. LARSON of Connecticut, Mr. MCNULTY, Mr. JEFFERSON, and Mr. PAYNE.

H.R. 503: Mr. PLATTS, Mr. CASTLE, and Ms. VELÁZQUEZ.

H.R. 517: Mr. HOLDEN, Mr. RENZI, Mrs. CAPITO, Mr. FORTUÑO, and Mr. DOOLITTLE.

H.R. 547: Mr. CROWLEY, Mr. CUMMINGS, and Mr. LARSON of Connecticut.
H.R. 558: Mr. DAVIS of Illinois and Mr. GRIJALVA.
H.R. 583: Mr. MEEHAN, Mr. FRANK of Massachusetts, Mr. TERRY, and Mr. EMANUEL.
H.R. 596: Mr. PLATTS, Mr. BAKER, Mr. GOODLATTE, and Mr. BROWN of South Carolina.
H.R. 602: Mr. MURPHY and Mr. ROSS.
H.R. 615: Mr. GREEN of Wisconsin.
H.R. 616: Mr. STARK.
H.R. 627: Mr. SHAYS.
H.R. 653: Mr. KANJORSKI, Ms. HOOLEY, Mr. STICKLAND, Mr. ETHERIDGE, Mrs. MCCARTHY, Mr. PASCRELL, and Ms. CARSON.
H.R. 691: Mr. BOUCHER.
H.R. 699: Mr. PLATTS, Mr. KILDEE, Mr. WELDON of Florida, Mr. DINGELL, Mr. ROSS, Mr. LAHOOD, Ms. WASSERMAN SCHULTZ, and Mr. WAXMAN.
H.R. 703: Mr. SHADEGG.
H.R. 712: Mr. TERRY.
H.R. 719: Mr. CONYERS and Mr. ALLEN.
H.R. 745: Mr. ALEXANDER and Mr. MCCRERY.
H.R. 761: Ms. SCHAKOWSKY, Ms. CORRINE BROWN of Florida, Mr. LARSON of Connecticut, and Ms. BORDALLO.
H.R. 764: Mr. PAYNE.
H.R. 765: Mr. TANCREDO, Mr. DAVIS of Alabama, and Mr. FEENEY.
H.R. 783: Ms. SCHAKOWSKY and Mr. CARDOZA.
H.R. 792: Mr. BISHOP of New York, Mr. WALSH, Mr. BRADY of Pennsylvania, Mr. HOLDEN, and Ms. CARSON.
H.R. 793: Ms. DEGETTE, Mr. NEAL of Massachusetts, and Mr. KLINE.
H.R. 800: Mr. CUNNINGHAM, Mr. BROWN of South Carolina, and Mr. SODREL.
H.R. 801: Mr. KILDEE.
H.R. 810: Mr. MCNULTY, Ms. GRANGER, Mr. CLYBURN, Mr. COSTA, and Mr. WHITFIELD.
H.R. 815: Mr. NEAL of Massachusetts.
H.R. 817: Mr. DEFAZIO, Mr. CAPUANO, Mr. BOSWELL, Mr. CARDOZA, Mr. FARR, Ms. WATERS, Mr. ALLEN, Mr. HOLT, Mr. DICKS, Mr. GERLACH, Ms. SCHAKOWSKY, Ms. LEE, Mr. FRANKS of Arizona, Mrs. CAPPS, Mr. FRANK of Massachusetts, Mr. JONES of North Carolina, Mr. WHITFIELD, Mr. MENENDEZ, Mr. GRIJALVA, Mr. PRICE of North Carolina, Mr. STARK, Mr. KILDEE, and Mr. MICHAUD.
H.R. 839: Mr. MCDERMOTT, Mr. LARSON of Connecticut, Mr. OWENS, Mr. KUCINICH, Mr. MARKEY, Ms. WOOLSEY, Mr. PRICE of North Carolina, and Mr. SCHIFF.
H.R. 844: Mrs. DAVIS of California.
H.R. 864: Mr. KILDEE and Mr. DOGGETT.
H.R. 877: Mr. TURNER, Mr. PAUL, Mr. CUMMINGS, and Mr. MENENDEZ.
H.R. 887: Mr. SMITH of Washington and Mr. CARDOZA.
H.R. 896: Mr. NORWOOD, Mr. RADANOVICH, Mr. HOEKSTRA, Mr. SIMMONS, and Mr. GRAVES.
H.R. 899: Mr. MCHUGH.
H.R. 908: Mr. GENE GREEN of Texas.
H.R. 924: Mr. YOUNG of Florida.
H.R. 925: Mr. BILIRAKIS, Mr. OTTER, Mr. MCCAUL of Texas, Mr. WILSON of South Carolina, Mr. SHADEGG, Mr. DEAL of Georgia, Mr. SHAW, and Mr. FRANKS of Arizona.
H.R. 926: Mr. FORTUÑO and Mr. BRADLEY of New Hampshire.
H.R. 930: Mr. BOEHLERT and Mrs. CAPITO.
H.R. 934: Mr. PETERSON of Minnesota, Mr. ENGEL, Mr. CONYERS, and Mr. GENE GREEN of Texas.
H.R. 939: Mr. TOWNS and Mr. CUMMINGS.
H.R. 942: Mr. FORD.
H.R. 968: Mr. SERRANO, Mr. JENKINS, Mr. MCCOTTER, Mr. MCDERMOTT, Mr. PORTER, Mr. BERRY, and Mr. ROSS.
H.R. 972: Ms. ZOE LOFGREN of California, Mr. SCHIFF, Mr. BASS, and Mr. BUYER.
H.R. 976: Mr. NORWOOD, Mr. PORTER, and Mr. TANCREDO.
H.R. 983: Mr. GRIJALVA and Mr. NADLER.
H.R. 985: Mr. LUCAS, Mr. LATOURETTE, Mr. MURTHA, Mr. BOEHLERT, Mrs. BIGGERT, Mr. MANZULLO, Mr. ANDREWS, and Mr. MCCOTTER.
H.R. 988: Mr. BAIRD, Mr. BOEHLERT, and Mr. Matheson.
H.R. 995: Mr. FORTUÑO.
H.R. 997: Mr. BRADLEY of New Hampshire.
H.R. 998: Mr. HOLDEN.
H.R. 1049: Mr. LATHAM, Mr. WELLER, and Mr. CHOCOLA.
H.R. 1053: Mr. SNYDER.
H.R. 1059: Mr. ALLEN and Ms. MOORE of Wisconsin.
H.R. 1063: Mr. KLINE.
H.R. 1070: Mr. SODREL.
H.R. 1071: Mr. MCGOVERN, Ms. ROYBAL-ALLARD, Mrs. NAPOLITANO, Mr. HAYWORTH, Mr. CALVERT, Mr. BROWN of South Carolina, Mr. FOLEY, Ms. GINNY BROWN-WAITE of Florida, Mr. CASE, Ms. ROS-LEHTINEN, Mr. LINCOLN DIAZ-BALART of Florida, Mr. HASTINGS of Florida, and Mr. FILNER.
H.R. 1078: Ms. MCCOLLUM of Minnesota, Ms. SLAUGHTER, Mr. LANTOS, Mr. MCGOVERN, and Mr. GORDON.
H.R. 1079: Mr. ROGERS of Michigan.
H.R. 1080: Ms. MCCOLLUM of Minnesota, Mr. DEFAZIO, Mr. LANTOS, Mr. MCGOVERN, and Mr. GORDON.
H.R. 1088: Mrs. MCCARTHY.
H.R. 1091: Mr. SHAYS.
H.R. 1093: Mr. KUHL of New York and Mr. OWENS.
H.R. 1096: Mr. PASCRELL.
H.R. 1100: Mr. PETERSON of Pennsylvania and Mr. EVERETT.
H.R. 1105: Mr. BOUCHER, Mr. MENENDEZ, Mr. ROTHMAN, and Mr. LATOURETTE.
H.R. 1116: Mr. TOWNS.
H.R. 1120: Ms. KILPATRICK of Michigan, Mr. FILNER, Mr. VAN HOLLEN, Ms. BALDWIN, Mr. ALEXANDER, and Mrs. JOHNSON of Connecticut.
H.R. 1124: Ms. SCHAKOWSKY, Mr. COSTA, Mr. STARK, and Mr. NADLER.
H.R. 1130: Mr. BUTTERFIELD.
H.R. 1131: Mrs. JOHNSON of Connecticut and Mrs. KELLY.
H.R. 1136: Mr. TOWNS, Mr. MENENDEZ, and Mr. MEEKS of New York.
H.R. 1145: Mr. BUTTERFIELD.
H.R. 1150: Mrs. CAPITO.
H.R. 1153: Mr. HOYER, Ms. VELÁZQUEZ, Mr. CASE, and Mr. LARSEN of Washington.
H.R. 1170: Mr. SNYDER.
H.R. 1184: Mr. GONZALEZ.
H.R. 1195. Mr. CONYERS, Mrs. LOWEY, Mr. MCDERMOTT, Mr. MEEHAN, Mr. PASCRELL, Mr. RANGEL, Mr. SHAYS, Mr. THOMPSON of Mississippi, and Mr. WYNN.
H.R. 1202: Mr. GREEN of Wisconsin.
H.R. 1204: Ms. SLAUGHTER, Mr. RANGEL, Mr. LEACH, and Ms. WATSON.
H.R. 1235: Mr. REHBERG.
H.R. 1242: Mr. VAN HOLLEN, Mr. BROWN of Ohio, Mr. KUCINICH, Mr. MCDERMOTT, Mr. BISHOP of Georgia, Mr. MCGOVERN, Mr. SALAZAR, Mr. EMANUEL, and Mr. YOUNG of Florida.
H.R. 1243: Mr. PETERSON of Minnesota, Mr. PEARCE, Mr. PETERSON of Pennsylvania, Mrs. JO ANN DAVIS of Virginia, Mr. NORWOOD, Mr. BILIRAKIS, Mr. ROGERS of Kentucky, Mr. PLATTS, Mr. GARRETT of New Jersey, Mr. GOODLATTE, and Mr. NEY.
H.R. 1245: Mr. MARIO DIAZ-BALART of Florida, Mrs. MALONEY, Mr. WEINER, Mr. BERMAN, Mr. OWENS, Mr. BUTTERFIELD, Mr. REYES, Mr. ACKERMAN, and Ms. WASSERMAN SCHULTZ.
H.R. 1246: Mr. GOHMERT and Ms. GRANGER.
H.R. 1264: Mr. DUNCAN.
H.R. 1272: Mr. FOLEY
H.R. 1277: Ms. SCHAKOWSKY and Mr. WEXLER.
H.R. 1293: Mr. COSTELLO.
H.R. 1299: Mr. ROSS, Mr. SCOTT of Georgia, Mr. REICHERT, and Mr. FLAKE.
H.R. 1306: Mr. BISHOP of New York, Mr. KUHL of New York, Mr. HASTINGS of Washington, Mr. BACHUS, Mr. MANZULLO, Mr. GARY G. MILLER of California, and Mr. AKIN.
H.R. 1312: Ms. JACKSON-LEE of Texas and Mr. SHERMAN.
H.R. 1339: Mr. BOUSTANY.
H.R. 1350: Mr. LEWIS of Kentucky.
H.R. 1352: Mr. HOLT, Mr. JONES of North Carolina, Mrs. MCCARTHY, Mr. BRADY of Pennsylvania, Mr. MURTHA, Mr. KANJORSKI, Mr. EMANUEL, Mr. EVANS, Ms. LORETTA SANCHEZ of California, Mr. WYNN, Mr. THOMPSON of California, Mr. BROWN of Ohio, Mr. RYAN of Ohio, Mr. ISRAEL, Mr. MOORE of Kansas, Mr. ANDREWS, Mrs. TAUSCHER, Mr. PASCRELL, Mr. SPRATT, Mr. PEARCE, Mr. DENT, Mr. GOHMERT, Mr. DAVIS of Kentucky, Mr. DAVIS of Alabama, Mr. AL GREEN of Texas, Mr. CLEAVER, Mr. CHANDLER, Mr. WELDON of Pennsylvania, Mr. SALAZAR, Mr. BOREN, Mr. RUPPERSBERGER, Mr. COSTELLO, Mr. GENE GREEN of Texas, Mr. SCHIFF, Mrs. DAVIS of California, and Mr. BISHOP of New York.
H.R. 1356: Mr. TIERNEY.
H.R. 1365: Mr. STARK and Mr. FATTAH.
H.R. 1366: Mr. CARDOZA.
H.R. 1370: Mr. OTTER, Mr. SIMPSON, Mrs. CUBIN, Mrs. BLACKBURN, Mr. DOOLITTLE, Mr. WESTMORELAND, Mr. HOSTETTLER, and Mr. REHBERG.
H.R. 1375: Mr. EDWARDS and Mr. ORTIZ.
H.R. 1376: Mr. OBERSTAR and Mr. ALLEN.
H.R. 1380: Mr. HOLDEN, Mr. BARTLETT of Maryland, Mr. GONZALEZ, Mr. LANTOS, Mr. LEWIS of Kentucky, and Mr. ALEXANDER.
H.R. 1388: Mrs. MUSGRAVE.
H.R. 1393: Mr. KENNEDY of Minnesota, Mr. BOSWELL, Mr. PETERSON of Minnesota, and Mr. BARTLETT of Maryland.
H.R. 1405: Mr. GRIJALVA.
H.R. 1406: Mr. EDWARDS.
H.R. 1409: Mr. SHIMKUS, Mr. RUSH, and Mr. OBERSTAR.
H.R. 1415: Mr. SHERMAN.
H.R. 1426: Mr. DICKS, Ms. CORRINE BROWN of Florida, Mr. RYAN of Wisconsin, Mr. ROSS, and Mr. MCGOVERN.
H.R. 1498: Mr. FRANKS of Arizona, Mr. HOLDEN, Mr. TAYLOR of Mississippi, Mr. LIPINSKI, and Mr. BUTTERFIELD.
H.R. 1500: Mr. HALL and Mr. GREEN of Wisconsin.
H.R. 1505: Mr. PUTNAM, Ms. KILPATRICK of Michigan, Mr. WILSON of South Carolina, and Mr. LINCOLN DIAZ-BALART of Florida.
H.R. 1517: Mr. MCCOTTER, Mr. GOODE, Mr. BAKER, Mr. SOUDER, Mr. KUHL of New York, Mr. WILSON of South Carolina, Mr. LAHOOD, Mr. HOSTETTLER, Mr. FLAKE, Mr. GOODLATTE, Mr. MCCAUL of Texas, Ms. GINNY BROWN-WAITE of Florida, Mr. MILLER of Florida, Mr. WICKER, Mr. AKIN, Mr. KLINE, and Mr. TERRY.
H.R. 1521: Mr. RANGEL.
H.R. 1526: Mr. ABERCROMBIE, Ms. HARMAN, Mr. BARTLETT of Maryland, Mr. GUTIERREZ, Mr. YOUNG of Alaska, Mr. FRANK of Massachusetts, Mr. OWENS, Mr. STARK, and Mr. ALLEN.
H.R. 1540: Mr. TAYLOR of Mississippi.
H.R. 1545: Mr. DUNCAN.
H.R. 1554: Mr. ANDREWS, Mr. MCDERMOTT, Ms. BALDWIN, Mr. MCNULTY, and Mr. TERRY.
H.R. 1575: Mr. BURTON of Indiana, Mr. JONES of North Carolina, Mr. GOODE, Mr. MCCOTTER, Mr. BROWN of Ohio, Mr. MCINTYRE, and Mr. GENE GREEN of Texas.
H.R. 1582: Mr. WAXMAN, Mr. BACHUS, Mr. SOUDER, Mr. SHAYS, Mr. PAUL, Mr. PETERSON of Minnesota, and Mr. DAVIS of Illinois.
H.R. 1588: Mr. SERRANO.
H.R. 1595: Ms. ROS-LEHTINEN, Mr. GILCHREST, Mr. PALLONE, Mr. FILNER, Mr. HINOJOSA, Mr. LARSEN of Washington, Mr. FRANK of Massachusetts, Mrs. CAPPS, Mr.

ISRAEL, Mr. LARSON of Connecticut, Mrs. MALONEY, Ms. LORETTA SANCHEZ of California, and Ms. KAPTUR.

H.R. 1598: Ms. Ginny Grown-Waite of Florida, Mr. SHAW, and Mr. GORDON.

H.R. 1608: Mr. REHBERG and Mr. HULSHOF.

H.R. 1624: Mr. FARR and Ms. LORETTA SANCHEZ of California.

H.J. Res. 10: Mr. PUTNAM.

H.J. Res. 23: Mr. STUPAK, Mr. MCDERMOTT, and Mr. GRIJALVA.

H. Con. Res. 24: Mr. LYNCH, Mr. HONDA, Mr. MCNULTY, Mr. NEAL of Massachusetts, Ms. KILPATRICK of Michigan, Mr. OWENS, and Mr. THOMPSON of Mississippi.

H. Con. Res. 41: Mr. GONZALEZ and Mr. SNYDER.

H. Con. Res. 65: Mr. MILLER of North Carolina and Mr. CHABOT.

H. Con. Res. 90: Mr. SHAYS.

H. Con. Res. 99: Mr. DAVIS of Illinois and Mr. DOGGETT.

H. Con. Res. 108: Ms. SCHWARTZ of Pennsylvania, Mr. RANGEL, Mr. NEAL of Massachusetts, Mr. OLVER, Mr. PASTOR, and Mr. DOGGETT.

H. Con. Res. 123: Ms. ESHOO, Mr. LANTOS, Mr. HOLT, Ms. ROYBAL-ALLARD, Mr. ANDREWS, and Mr. GRIJALVA.

H. Con. Res. 125: Mrs. JONES of Ohio, Mr. GENE Green of Texas, Mr. FRANKS of Arizona, Ms. HERSETH, and Mr. GUTIERREZ.

H. Con. Res. 127: Mr. ISSA, Mr. WEXLER, Ms. WATSON, Ms. MCCOLLUM of Minnesota.

H. Res. 137: Mr. CARTER, Mr. SESSIONS, and Mr. LATOURETTE.

H. Res. 158: Mr. MOORE of Kansas and Mr. KENNEDY of Rhode Island.

H. Res. 170: Ms. MCCOLLUM of Minnesota.

H. Res. 184: Ms. NEUGEBAUER, Ms. HARRIS, and Mr. ALEXANDER.

H. Res. 186: Mr. SHAW.

PETITIONS, ETC.

Under clause 3 of rule XII,

17. The SPEAKER presented a petition of the Office of the Mayor and City of Lauderdale Lakes Commission, Florida, relative to Resolution No. 05–47 petitioning the Congress of the United States to preserve the Community Development Block Grant Program, to restore funds lost by virtue of the Administration's FY06 budget and to enhance levels of funding previously provided in order to assist local communities in their continued efforts to develop their communities; which was referred to the Committee on Financial Services.

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *109th* CONGRESS, FIRST SESSION

Vol. 151 WASHINGTON, THURSDAY, APRIL 14, 2005 *No. 44*

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God, who can test our thoughts and examine our hearts, look within our leaders today and remove anything that will hinder Your Providence. Replace destructive criticism with kindness and humility. Give to our Senators a wisdom that will bring unity and respect. Help them to commit the labors of this day to You, knowing they can trust You to provide help when they need it most.

Be merciful and bless each of us. May Your face shine with favor upon those who love You, as You unleash Your saving power in our world.

Help us to do with our might that which lies to our hands so that we may fight the good fight and at the end receive the crown which You will award to those who have been faithful.

This we ask in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN E. SUNUNU 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. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 14, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. SUNUNU thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, once again today, the Senate will be in a period for morning business for 60 minutes. Following that time, the Senate will resume debate on the emergency supplemental appropriations bill. We have several amendments pending from yesterday that are currently under review, and Members may want to speak to those amendments.

Much of the day yesterday we spent—both on the floor and off the floor—discussing the immigration issue. The issues surrounding immigration are critically important to our economy, to equity, and to security and fairness. They are all vital to this country. The leadership has encouraged those who want to participate in a comprehensive debate on immigration to postpone consideration of their amendments from this standpoint because this is an emergency supplemental spending bill to support our troops in Iraq and Afghanistan and to have appropriate funding for tsunami relief.

There will be a time later, before the end of the year, when we will address immigration in a comprehensive way. In spite of that, we have respected the rights of individual Senators who feel they absolutely must address specific issues, but I continue to encourage those who want to address immigration in a comprehensive way to do so at a more appropriate time.

I know we can work out a process to keep moving forward on the emergency supplemental bill, but we have to address specifically the range of immigration issues that have been brought forth to the managers.

The managers will continue to consider the amendments that are brought forward. Amendments that are brought forward, I encourage they relate to the supplemental emergency spending bill as much as possible. We expect votes over the course of today, and we will have, I expect, a very busy schedule over the course of the day.

Mr. President, I have a few other remarks to make, but I will be happy to turn to the Democratic leader.

Mr. REID. Mr. President, I thank the leader. I say through the Chair to the majority leader, we have worked—even started working last week—on the immigration amendments. We have a finite list now. We have 12 amendments. I think that can be whittled down, for lack of a better word, to even less than that, considerably less than that.

What we should do is lock in these amendments as a finite list. Within a very short period of time, we can find out how many really have to be offered.

The pending amendment, the one Senator MIKULSKI offered, will have nearly—in fact, it may have—60 votes. So that will be adopted with ease.

I hope we do not have to file cloture on this bill. I acknowledge this is important legislation. The money for the funding of the troops is absolutely necessary. All one has to do is read the paper every morning to understand how badly our troops need it. I was just there, and they need all the resources they can get. We want to make sure they do not have to wait a second for what they need.

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

I will work with the leader through the morning and early afternoon, and see if we can get this number whittled down. Also, the majority leader has a few on his side.

I hope we can limit the immigration amendments to very few—I would say, at the most, three on each side, or four at most, and have the others set aside until a time the majority leader has indicated he will give, sometime before we finish work this year, so there can be a full debate on those immigration matters.

As the leader knows, the problem—and he had nothing to do with it—is in this bill. There is immigration material in this bill. They have so-called REAL ID which came about as a result of our trying to get other legislation done last year. An arrangement was made by the House leadership that they would allow, on the first moving vehicle to come along, the chairman of the Judiciary Committee to put his legislation in the bill. It is in this bill. That is the problem we have.

The Republican leader did not want it in this bill, I did not want it in this bill, but it is in the bill. As a result, we do not have the normal objection that is available when we legislate on an appropriations bill.

I will work with the leader. We will get staff working on this, as they have, to see if we can narrow this considerably. The amendments that deal with the subject matter at hand, the funding of this bill, are just a few in number. We dealt with some of the most important ones yesterday.

I hope we can finish this bill in a reasonably good period of time, and maybe, if we are fortunate, we can get something such as the highway bill or something such as that before we finish our work period—maybe the TANF bill, whatever is out there for us to do.

I understand the problems the leader has, and I will be happy to work with him to alleviate his load as much as possible.

Mr. FRIST. Mr. President, I have a few other comments.

H2N2 FLU VIRUS

Mr. FRIST. Mr. President, there is one issue I talked about initially Monday and want to bring forth once again.

Nothing is more important than the safety of the American people, and we have a lot of work to do in a particular area. Yesterday we learned that samples of the deadly H2N2 flu virus were accidentally shipped to 5,000 laboratories all over the world. Thankfully, nearly all of the samples have been destroyed.

The H2N2 virus is lethal. It is fatal. Back in 1957, it killed over 70,000 people just here in the United States and as many as 1 million to 4 million people around the world.

This latest news underscores, once again, just how vulnerable we are as an American people, as a world people, because viruses know no borders, they know no geography. There are no barriers.

On Monday, 3 days ago, I spoke of the need to bolster State preparedness and Federal preparedness in this arena. I mentioned that exotic and deadly viruses, such as the Marburg virus that at this very moment is racking all of northern Angola—the Marburg virus being a virus which is an Ebola-like virus, a hemorrhagic-fever-type virus—those viruses that are racking that country which we do not understand, for which we have no cure, for which we have no vaccine, are literally just a plane ride away from this room or from whoever is listening to me now through the media around the country. It is just a plane ride away.

Avian flu has already killed 50 people. Some say, 50 people, that is not thousands of people. But it is 50 people from a virus that not too long ago we did not know anything about, that began to be harbored in birds, and now is being harbored in other animals and now has killed and jumped to kill 50 people; with just a tiny drift and ultimately a shift in a mutation, it becomes transmissible.

Once again, we have no vaccine for avian flu. It is something for which we have no cure. We only have to look back to 1917, another type of avian flu, but very similar, which killed a half a million Americans, 50 million people around the world.

Meanwhile, as all this goes on, there are only five major vaccine manufacturers worldwide that have production facilities in the United States. That is for all vaccines. Only two of those are actually United States companies. Our manufacturing base for vaccines is woefully inadequate for any of the threats I have just mentioned.

Over the past 2 decades, the number of manufacturers who make vaccines for children has dwindled from 12 down to now just 4, and only 2 of the 4 manufacturers that make lifesaving vaccines for children are here in the United States.

I spoke, as I mentioned, on this topic on Monday. I spoke on Monday because it was the 50th anniversary of the polio vaccine. Yesterday's news about the H2N2 virus is just one more reason why we need to take action. It is imperative we strengthen our domestic vaccine supply, we offer appropriate legal protections, and we encourage and incentivize collaboration between public and private sectors. We need to advance research and development. We need to put all these initiatives together to protect us from a deadly viral outbreak that scientific experts warn could come to our shores any day.

America has been the engine of countless lifesaving discoveries and global health efforts. Once again, we are called upon to lead for the safety of our fellow citizens and, indeed, citizens around the world.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

Mr. FRIST. Mr. President, under the previous order, there will now be a period for the transaction of morning business for up to 60 minutes, with the first half of the time under the control of the Democratic leader or his designee and the second half of the time under the control of the majority leader or his designee.

The Senator from North Dakota.

IMPORTANT ISSUES TO BE FACED

Mr. DORGAN. Mr. President, I wish to make a couple of comments today on some very important issues we will face in the days ahead.

We have the supplemental appropriations bill on the floor of the Senate asking for just over $80 billion for the cost of the war in Iraq and Afghanistan.

Most of it is to replenish military accounts. A number of amendments have been offered. Immigration amendments are now pending. I intend to offer a couple of amendments as well.

I will describe one of those amendments this morning. It deals with the establishment of a special committee of the Senate, modeled after the Truman Commission, to investigate the waste, fraud, and abuse that is happening with respect to contracting in Iraq.

I also wish to address another amendment I will offer, that would shut down the investigation that has been going on now 10 years by Mr. Barrett, an independent counsel. He started in 1995 to investigate allegations against Henry Cisneros, who was a Cabinet Secretary, allegations that he had given payments to a former mistress and then lied about it.

That independent counsel investigation started in 1995 and has been going on ever since. But Mr. Cisneros pled guilty in 1999. And he was pardoned in 2001 by a Presidential pardon. Yet here it is 2005 and the independent counsel is still spending money, $1.3 million, I believe, for the previous 6 months. I believe it is time for this Congress to say stop, enough is enough. Stop wasting the taxpayers money. What on Earth could you be thinking about? Four years after the person was pardoned and 7 years after the person pled guilty, the independent counsel is still spending money? If ever there were an example of Government waste and lack of common sense, this is it.

I also wish to mention briefly this country's trade deficit. I wanted to come to the floor the day before yesterday, but I was not able to do that.

There was a small announcement the day before yesterday that in February our trade deficit was $61 billion in 1

month. This is an example of what is happening to this country's trade deficits: We are choking on red ink. This is serious. It is a crisis, and nobody seems to care. The White House is snoring its way through this issue. The Congress is sleeping through it. Nobody gives a rip about this at all. Nearly $2 billion a day is the amount we purchase from abroad from other countries in goods and services in excess of the amount we sell to them. That means every single day foreign countries and foreign investors own $2 billion more of our country, claims against our country, stocks, bonds, assets, or real estate.

This is a crisis that will have a profound impact on future economic growth in this country. It will have a profound impact, and does, on the wholesale export of American jobs all across the world.

Yesterday, I read a piece that General Motors called in its subcontractors and said: You need to start moving your jobs to China to be more competitive.

Evidence is all around us that this trade strategy we have is unsound. It does not work. It injures our country. It is hollowing out our manufacturing sector, and it is moving American jobs overseas. This country had better take notice. This Congress had better sit up and start caring about this, and this President had better start parking Air Force One and providing some leadership on things that are a crisis.

No, Social Security is not in crisis. Social Security will be fully solvent until George Bush is 106 years old. That is hardly a crisis. But the announcement that in February of this year we had a $61 billion 1-month trade deficit ought to provoke this White House and this Congress, Republicans and Democrats, to take action in support of this country's economic interests for a change.

What do we hear about trade? We do not hear anybody wanting to do anything about this, and I will speak later on about what we should do in some detail. What we hear is we want another trade agreement to be passed by the Congress called the Central American Free Trade Agreement, CAFTA. To me, it is an acronym that means careless and foolish trade agreement.

Along with my colleague from Georgia, Senator LINDSEY GRAHAM, we are going to lead the opposition, and I hope we can round up the votes in this Congress to defeat this trade agreement. The message ought to be to those folks who are negotiating these agreements and then sending them to Congress under fast track, please fix some of the problems that have been created in past trade agreements before negotiating new ones and before asking the Congress to approve new ones. Fix a few of the problems that have been created.

Do my colleagues think this is not a problem? This comes from NAFTA. This comes from GATT. This comes from all of the distant cousins of the trade agreements that we brought to the Senate floor, almost all of which I have voted against, because I believe they pull the rug out from under the interests of this country. They pull the rug out from under our workers and our businesses. So I hope very much that we can finally get someone's attention. If $61 billion a month in trade deficits is not a wake-up call that gets someone's attention, my guess is they are permanently asleep.

Now, I wish to speak about the issue of contracting in Iraq. There is massive waste, fraud, and abuse going on in contracting in Iraq, as is the case in many circumstances where a lot of money is being poured out to prosecute a war. If one does not watch carefully, people are going to fleece the taxpayers, and that is what is happening. Nobody seems to care about that, either.

We cannot get aggressive hearings in the Congress about oversight. Why is that? I do not know. So as chairman of the Democratic Policy Committee, we have held four hearings on these abuses.

In a moment, I will read a few newspaper headlines about this waste, and yes, these headlines mention the word Halliburton, and I know that when the word Halliburton is mentioned people think, okay, now this is political, it is partisan, now we are going after Vice President CHENEY because he used to head that corporation. This has nothing to do with Vice President CHENEY. He has been long gone from Halliburton. This has nothing to do with the Vice President, nothing to do with partisan politics. It has everything to do with the American taxpayers being cheated.

So to the extent that Halliburton is in these headlines, it is because they were given very large sole-source contracts without any competitive bidding. Billions of dollars have gone into the pockets of Halliburton and here is the result, with a substantial lack of oversight.

First, let me describe this picture. This does not deal with Halliburton, by the way. This deals with a company called Custer Battles, two guys named Custer and Battles. This picture shows $2 million in cash wrapped in Saran wrap. This fellow, incidentally, was the guy who was turning over the $2 million because the company that was owed the $2 million showed up with a bag. Why did they show up with a bag to collect cash wrapped in Saran wrap? Because they were told in Iraq: When you are contracting, bring a bag, you are going to get cash, by the bagful.

Now, these people got a lot of cash. This is their first $2 million. They have been accused of substantial fraud. Doing security at airports, they allegedly confiscated the forklift trucks, took them off the airport property, repainted them, and then sold them back to the Coalition Provisional Authority, which was the U.S. taxpayer.

So here is the first delivery of $2 million in cash in a bag to a company that is now widely accused of fraud.

Now, here are some of the stories of waste that I mentioned, involving Halliburton. I will read some of these headlines. This was a former Halliburton employee who testified before our committee: ''Halliburton Manipulated Purchase Orders to Avoid Oversight''—that is a newspaper headline. For purchase orders under $2,500 buyers only needed to solicit one quote from a vendor. To avoid competitive bidding, requisitions were quoted individually and later combined into the $2,500 and more. They were told to do that in order to cheat.

In fact, this particular guy held up a towel, and he said: This was a towel we were supposed to order because we were buying towels for U.S. soldiers.

They paid nearly double the price for the towels because instead of ordering the towel that was the plain towel, they ordered one embroidered with their company's logo on it so the American taxpayer could pay nearly double.

''Halliburton Discouraged Full Disclosure to Auditors.'' ''Halliburton Overcharged for Oil.'' This is from the fellow who used to run the portion of the Defense Department that would purchase oil, yes, even in areas where we were at war, and he said: During my tenure at the Defense Department, we were occasionally forced to pay sole-source prices in some locations, but not even in remote central Asia did we pay close to a gallon for jet fuel of what Halliburton was charging in Iraq. He said that overcharging for oil was simply out of control. This is a former Defense Department official.

By the way, Halliburton ordered 25 tons of nails—that is 50,000 pounds of nails. Do my colleagues know where they are today? They are laying in the sand of Iraq because they came in the wrong size. Somebody made a mistake on the order. If someone wants 50,000 pounds of nails, they are laying in the sands of Iraq someplace. The American taxpayer paid for them, and Halliburton got reimbursed for it.

We had testimony of people driving $85,000 trucks in Iraq, and those trucks were abandoned just because they had a flat tire or because they had a clogged fuel pump. They were abandoned and torched, and they went and bought new trucks. So much for oversight. Nobody cares because it is a war and because there are sole-source contracts. These are pieces of testimony from whistleblowers, from former employees, who said: Here is what is going on. The truck piece was from a truck-driver in Iraq who worked for Halliburton.

It is just unbelievable when one listens to what is happening: Bags of cash, billions of dollars. We say we are going to put air-conditioning in a building near Baghdad, and so our contractor hires a subcontractor, who hires a couple of workers, and we get

charged for air-conditioning and they put in a ceiling fan that does not work. Does anybody care? Can we get anybody in this Congress, any committee, to hold oversight hearings to care about the massive fraud, waste, and abuse? Not on one's life, not a chance. God forbid that we should be critical of anything that is going on around here, despite the fact that the American taxpayer is getting fleeced wholesale.

I offered an amendment in the Appropriations Committee that would have set up a Truman-style investigating committee. Senator Harry Truman from Missouri, at a time when there was a Democrat in the White House, decided there was substantial abuse by contractors at the start of World War II, and he persuaded a Democratic Congress to set up an investigative committee. Yes, a Democratic Congress and a Democrat in the White House set up an investigative committee, and they saved a massive amount of money by uncovering a dramatic amount of fraud and waste.

Now we have one party control, and nobody wants to embarrass anyone else, so they do not look at anything. It is see no evil, hear no evil, speak no evil. Meanwhile, the American taxpayers are completely getting fleeced by massive waste, fraud, and abuse.

We have done four hearings. I mentioned Halliburton, but I also can mention Custer Battles. I can mention other companies. Obviously, Halliburton is the poster child because they received giant contracts without bidding, and then we see that they are charging the American taxpayer to feed 42,000 soldiers a day when, in fact, they are only feeding 14,000 soldiers a day. So they are charging us for 28,000 meals that are not served. Fraud? I would think so. But what happens these days? First, it does not even get investigated. If it does get investigated, they get a slap on the wrist and a pat on the back with another contract.

This Congress needs to start facing up to these issues and getting tough. No, this is not partisan. If we are going to shove $81 billion out the door in a supplemental defense funding bill, should we not, along with it, provide the appropriate approach to investigate these? That is what my amendment will do.

I offered my amendment in the Appropriations Committee. It was turned down on a partisan vote, regrettably. This is not a partisan amendment. My hope is that perhaps I will see a different result on the Senate floor.

How much time remains on our 30 minutes?

The PRESIDING OFFICER (Mr. COLEMAN). There is 15½ minutes remaining.

Mr. DORGAN. Mr. President, I believe the Senator from Connecticut is going to be coming over to claim parts of our 30 minutes, but the time is running. I see the Senator from Kentucky is on the floor. I know that by previous consent we have established 30 minutes on our side followed by 30 minutes on the other side. At this point, I will relinquish the floor if I could ask that we would reserve the remaining time for Senator LIEBERMAN from Connecticut because he is not here. If the other side would like to continue to take some of their time and then provided that when Senator LIEBERMAN comes, he would have reserved the additional 15½ minutes? I will make that a unanimous consent request and see if the Senator from Kentucky would agree to that.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The majority whip.

FILIBUSTERING OF JUDICIAL NOMINEES

Mr. MCCONNELL. Mr. President, we as senators have an enormous amount of work to do for the American people. For example, while our economy is strong, unfortunately gas prices are way too high. People are feeling those costs every time they fill up at the pump. This Senate needs to seriously address a long-term energy policy for this country, and reduce our dependence on foreign oil.

We have serious work to do to reform America's tax code, so it is fairer for all Americans, and leads to a more robust economy.

We have undertaken a debate on how to reform Social Security so it is stronger and more secure for future generations, as it has served millions so well already over the last 70 years.

Our road system needs improving. Millions of Americans take to the roads everyday to get to work and keep this country moving. It's critical the Senate pass a highway bill. In short, we have a formidable agenda before us. We welcome that challenge. I think that our constituents sent us here to get things done, not just to sit in these fancy chairs. But the Nation's business may soon come to an abrupt halt.

In the face of so much important work to be done, sadly, my Democratic friends on the other side of the aisle are promising to pull the plug on this chamber, and thus shut down the Government. Just because a majority of Senators want to restore the 200-year-old norms and traditions of the Senate, by granting a President's judicial nominees who have majority support the simple courtesy of an up-or-down vote, my colleagues on the other side of the aisle are threatening to stop this Senate dead in its tracks.

An energy bill to begin to address the high cost of gasoline and reduce our dependence on foreign oil? They would say: Forget it.

A highway bill, to begin desperately needed repairs on bridges and roads across the country? They would say: Not a chance.

These and other priorities will not happen if the Democrats shut down the Government. Because they cannot have what no Senate minority has ever had in 200 years—the requirement of a supermajority for confirmation—they threaten to shut the Government down.

The American people by now must rightly be asking, ''How did we get in such a mess?''

It was not by accident. The Democrats did not stumble into this position. It was carefully conceived.

Four years ago, in May of 2001, the New York Times reported that 42 of the Senate's then-50 Democrats attended a private weekend retreat in Farmington, PA, to discuss a plan of attack against the President's judicial nominees.

According to this article, the unprecedented obstruction by the other side is not based on checks and balances, or the rights of the minority. It is about ideology. The Democrats invited speakers to their retreat who warned them that President Bush was planning to, ''pack the courts with staunch conservatives.''

Now, here's the clincher. According to the New York Times, one participant said:

> It was important for the Senate to change the ground rules, and there was no obligation to confirm someone just because they are scholarly or erudite.

Let me make sure that last part came through loud and clear. The Democrats are accusing the Republicans, who merely want to restore the 200-year-tradition of giving judicial nominees with majority support an up-or-down vote, of some kind of power grab. Yet here is a 4-year-old admission that it is the Democrats who are clearly out to ''change the ground rules.'' They knew what they were doing. This was thoroughly premeditated.

That quote says it all. If a minority of the Senate does not get its way in obstructing judges from serving on our Nation's Federal courts, they will ''change the ground rules.'' They will shut down the Government. I say to my friends, I wouldn't take the extreme step of shutting the government down.

I ask unanimous consent to have this New York Times article of May 1, 2001 printed in the RECORD.

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

[From the New York Times, May 1, 2001]

DEMOCRATS READYING FOR JUDICIAL FIGHT

(By Neil A. Lewis)

President Bush has yet to make his first nominee to a federal court and no one knows whether anyone will retire from the Supreme Court this summer, an event that would lead to a high-stakes confirmation battle.

Nonetheless, the Senate's Democrats and Republicans are already engaged in close-quarters combat over how to deal with the eventual nominees from the Bush White House. Democrats in particular are trying to show some muscle as they insist that they will not simply stand aside and confirm any nominees they deem right-wing ideologues.

''What we're trying to do is set the stage and make sure that both the White House and the Senate Republicans know that we

expect to have significant input in the process,'' Senator Charles E. Schumer, New York's senior Democrat, said in an interview. ''We're simply not going to roll over.''

Forty-two of the Senate's 50 Democrats attended a private retreat this weekend in Farmington, Pa., where a principal topic was forging a unified party strategy to combat the White House on judicial nominees.

The senators listened to a panel composed of Prof. Laurence H. Tribe of Harvard Law School, Prof. Cass M. Sunstein of the University of Chicago Law School and Marcia R. Greenberger, the co-director of the National Women's Law Center, on the need to scrutinize judicial nominees more closely than ever. The panelists argued, said some people who were present, that the nation's courts were at a historic juncture because, they said, a band of conservative lawyers around Mr. Bush was planning to pack the courts with staunch conservatives.

''They said it was important for the Senate to change the ground rules and there was no obligation to confirm someone just because they are scholarly or erudite,'' a person who attended said.

Senator Tom Daschle of South Dakota, the Democratic leader, then exhorted his colleagues behind closed doors on Saturday morning to refrain from providing snap endorsements of any Bush nominee. One senior Democratic Senate staff aide who spoke on the condition of anonymity said that was because some people still remembered with annoyance the fact that two Democratic senators offered early words of praise for the nomination of Senator John Ashcroft to be attorney general.

Senators Robert G. Torricelli of New Jersey and Joseph R. Biden Jr. of Delaware initially praised the Ashcroft selection, impeding the early campaign against the nomination. Both eventually acceded to pressure and voted against the nomination.

The current partisan battle is over a parliamentary custom that Republicans are considering changing, which governs whether a senator may block or delay a nominee from his home State. Democrats and Republicans on the Judiciary Committee have not resolved their dispute over the ''blue-slip policy'' that allows senators to block a nominee by filing a blue slip with the committee.

On Friday, Senator Patrick J. Leahy of Vermont, the ranking Democrat on the Judiciary Committee, and Mr. Schumer sent a letter to the White House signed by all committee Democrats insisting on a greater role in selecting judges, especially given that the Senate is divided 50–50 and that the Republicans are the majority only because Vice President Dick Cheney is able to break any tie.

Senator Trent Lott of Mississippi, the Republican leader, told reporters today that he believed ''some consideration will be given to Democratic input, but I don't think they should expect to name judges from their State.''

Mr. Lott said he expected that Democrats might slow the process but, in the end, would not block any significant number of nominees.

Behind all the small-bore politics is the sweeping issue of the direction of the federal courts, especially the 13 circuit courts that increasingly have the final word on some of the most contentious social issues. How the federal bench is shaped in the next 4 or 8 years, scholars say, could have a profound effect on issues like affirmative action, abortion rights and the lengths to which the government may go in aiding parochial schools.

Mr. Bush is expected to announce his first batch of judicial nominees in the next several days, and it is likely to include several staunch conservatives as well as some women and members of minorities, administration officials have said. Among those Mr. Bush may put forward to important Federal appeals court positions are such conservatives as Jeffrey S. Sutton, Peter D. Keisler, Representative Christopher Cox of California and Miguel Estrada.

The first group of nominees, which may number more than two dozen, is part of an effort to fill the 94 vacancies on the Federal bench while the Republicans still control the Senate.

But it remains unclear if there will be a Supreme Court vacancy at the end of the court's term in July. Speculation on possible retirements has focused on Chief Justice William H. Rehnquist and Justices Sandra Day O'Connor and John Paul Stevens. But in recent days, associates of Justice O'Connor have signaled that she wants it known that she will not retire after this term.

Mr. MCCONNELL. the record about who is out to change what is not merely confined to the statements from this article. No, we have 4 years of behavior to corroborate these statements.

Soon after that Democrat retreat, and continuing to this day, we have seen our Democratic friends make major changes in the Senate's ground rules for confirming qualified judicial nominees.

For example, almost immediately the Democrats began to litmus-test judges in order to strain out the ones they considered too conservative. When they controlled the Judiciary Committee in the 107th Congress, they even held hearings on using ideology in the confirmation process in an effort to legitimize their practice of litmus-testing judges.

The Democrats have widely-applied their litmus tests. They have filibustered almost 1 circuit court nominee for every 3 they have confirmed. As a result, in his first term, President George W. Bush had only 69 percent of his circuit-court nominees confirmed. That is the lowest confirmation percentage of any President since World War II.

In addition, the Democrats began to demand that they in effect get to co-nominate judges along with the President. The Constitution clearly provides in Article II, Section 2, that the President, and the President alone, nominates judges. The Senate is empowered to give ''advice'' and ''consent.'' The Democrats, however, have sought to redefine ''advice and consent'' to mean ''co-nominate.''

President Bush, rightly so, has not acceded to this attempt to upset our Constitution's separation of powers. Unfortunately, the administration of justice is suffering. In the case of the Sixth Circuit, for example, Democratic Senators are willing to let one-fourth of the circuit seats sit empty in order to enforce their demands. As a result, the Sixth Circuit—which includes Tennessee, Kentucky, Ohio and Michigan—is far and away the slowest circuit in the Nation. My constituents and the other residents of the Sixth Circuit are the victims. Thanks to the other side's obstruction, Kentuckians know too well that justice delayed means justice denied.

The Democrats have changed other ground rules in the confirmation process. But all these changes were just precursors to what happened in the last Congress. In 2003, Democrats instituted the ultimate change in the Senate's ground rules: they began to obstruct, via the filibuster, on a systematic and partisan basis, well-qualified nominees who commanded majority support. That is unprecedented in over 200 years of Senate history.

Republicans did not filibuster judicial nominees, even though it would have been easy for us to do so. Let me give you the names of some very controversial Democratic judicial nominees whom we could have easily filibustered, during the Clinton and Carter years: Richard Paez, William Fletcher, Susan Oki Molloway, Abner Mikva. None of these nominees had 60 votes for confirmation.

Other controversial Democratic nominees, like Marsha Berzon, barely had 60 votes for confirmation, but we did not whip our caucus to try to filibuster them either. Indeed, just the opposite occurred: Senators LOTT and HATCH, to their great credit, argued that we ought not to set such a precedent, no matter ow strongly we oppose the nominee. I remember voting for cloture myself, voting to shut off debate on Paez and Berzon both, and then voting against them when they got their up-or-down vote, which they were entitled to get.

Our friends, the Democrats, are driving a double standard: The nominees of a Democratic President only had to garner majority support, as had every other judicial nominee in history until Democrats sought to change the ground rules. But nominees of a Republican President have to get a much higher level of support. That is the ultimate in hypocrisy.

Because the majority may seek to restore the norms and traditions of the Senate—norms and traditions that my Democratic friends have upset—the Democrats are now threatening to shut down the Government. That is not right.

We need to recommit ourselves to the 200 year principle that in a democracy an up-or-down vote should be given to a President's judicial nominees. It is simple. It is fair. It has been that way for over 2 centuries. And it's served us well.

I yield the floor.

Mr. COCHRAN, Mr. President, the continual controversy over Senate confirmation of Federal judges needs to be resolved. It promises to hang as a cloud over the Senate unless we reach an understanding of the appropriate role of the Senate.

I had been hopeful that the Senate leadership would be able to resolve this issue by reaching an agreement that would be acceptable to both sides. However, that does not now appear likely.

Therefore, I have advised the distinguished majority leader, Mr. FRIST,

that I will support him in his effort to bring this confrontation over judicial filibusters to an end.

There should be no question in anyone's mind about my intentions. I will work in concert with our leader, and with the distinguished majority whip, Mr. MCCONNELL, to end filibusters of judicial nominations in the Senate.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from North Dakota.

Mr. DORGAN. Mr. President, how much time remains?

The PRESIDING OFFICER. There remains 14 minutes 20 seconds.

Mr. DORGAN. My colleague from Connecticut is here. Let me take a couple of minutes and then yield to my colleague for the remaining time.

I must confess, it is hard sometimes to listen on the floor of the Senate without a big broad smile at the irony of this debate. Restoring the normal traditions of the Senate? There is a debate going on in the Senate, but that is not what it is about. This is about changing the rules in the middle of a game because one party in control doesn't get everything they want on every issue all the time.

We have confirmed 205 judges for this President and opposed the confirmation of only 10 of them. Because of that, the other side has an apoplectic seizure and decides they want to turn this Senate into the House, where there is no unlimited debate and one party can treat the other party like a piece of furniture they can sit on.

The Framers of this Constitution did not consider the Senate should be a compliant body during one-party rule. The minority has rights. One of those rights is unlimited debate.

I think it is very interesting to hear on the floor of the Senate how generously the Republicans treated nominees under the Presidency of President Clinton, when they—in 50 cases of people who were notified by the President they were nominated for a lifetime appointment on the Federal court—did not even have the courtesy of giving them 1 day of hearings. Not even a day of hearings. They didn't get to see the light of day in this Congress, let alone a filibuster.

What a shameful thing to do to someone to whom the President says, I am going to nominate you for a lifetime appointment on the court. They didn't give them 1 day of hearings.

Now they complain because we approved 204 and didn't approve 10. Now they complain the President didn't get every single judgeship he wanted. Have they ever heard of the words ''checks and balances''? Did they take a course at least in high school to understand what it means?

No. If this nuclear option, as it is called in this town, is employed by the majority party, with an arrogance that I have never seen in the years I have served in the Congress—if they do that, they will rue the day because they, one day, will be in the minority and they, one day, will wonder what on Earth did we do, to eliminate the unlimited debate provision in the United States Senate that George Washington and Thomas Jefferson said represents the cooling of the passions in this country, represents the one location of reasoned debate in this Government of ours.

I hear all these discussions about how this is about traditions and norms. Nothing could be further from the truth. What the majority is trying to do is change the rules of the Senate because the minority didn't approve 10 out of 215 judges. What an arrogant attitude and what damage they will do to this institution if they employ a tactic to change the rules at this point and turn this Senate into another House of Representatives. They will have done damage for the long term and damage I believe they themselves will regret because one day they, too, will be in the minority. Then they will again understand what this Constitution provides with respect to minority rights.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

DEATH BENEFITS IN THE SUPPLEMENTAL APPROPRIATIONS BILL

Mr. LIEBERMAN. Mr. President, I rise to speak in morning business about the provision of this supplemental appropriations bill before us that rights a wrong done with regard to death benefits of those who served the United States in uniform. I begin my remarks by thanking my friend and colleague from Alabama, Senator SESSIONS, and acknowledge his leadership on this very important humanitarian reform. I also thank the Senate Appropriations Committee, under the leadership of Senator COCHRAN and Senator BYRD, for bringing forward this emergency supplemental in a way that includes an important provision to improve the financial benefits for families of our fallen soldiers.

I am grateful that this supplemental uses the so-called HEROES bill, S. 77, which Senator SESSIONS and I cosponsored and introduced in January as the basis for the reforms to enhance the death benefit and the level of coverage under the Servicemen's Group Life Insurance Program.

Yesterday, the Senate amended this provision and voted to increase eligibility for the expanded death benefit to $100,000, which was in our HEROES bill, to include all active-duty service men and women.

These reforms honor the brave men and women wearing America's uniform who have made the ultimate sacrifice to defend our liberty by giving them and their families what we the American people owe them. Obviously, nothing can replace the loss of life. But a decent death benefit and adequate life insurance can provide our service members and their loved ones with a sense of security about their future which they deserve. For too long, they have not gotten that peace of mind, and indeed not the respect they deserve.

Senator SESSIONS and I have worked together for some time as members of the Senate Armed Services Committee to investigate and then to react to this wrong. We began looking at the question of what survivor benefits were in place for our men and women in uniform as we were concerned that the benefits being provided to families of those who lose their lives in the service of this country lagged behind benefits provided for public service employees in high-risk occupations, namely policemen and firefighters. The families of fallen policemen and firefighters deserve those higher benefits. But so, too, of course, do the families of fallen military personnel.

When Senator SESSIONS and I began this review, the death benefit paid to the families of service men and women who were killed in action was $6,000, an embarrassing sum. A small step forward was taken last year when the death benefit was increased to $12,000, but obviously that was still woefully inadequate.

Two studies, one done by the Department of Defense and the other done by the Government Accountability Office, documented that survivor benefits provided to some of the public employee groups I have mentioned in high-risk positions were greater than those provided for our soldiers killed in combat. That was evidently unfair, and that is why our legislation, the HEROES bill, was worked on for over 2 years with the Pentagon's service member group and veterans groups which resulted in a bill to correct that imbalance by adjusting military survivor benefits to more equitably reflect today's world.

I am very gratified that idea has taken hold, and it is reflected in the emergency supplemental before the Congress today.

With the changes adopted, if soldiers buy the servicemen's group life insurance, their families will receive $250,000, for which the soldier pays, and then an additional $150,000 of insurance the U.S. Government will pay for. In addition to that will be the $100,000 death benefit. That is half a million dollars, which in these times is not a lot when we consider families left behind, a parent or a spouse and children who will need to go to college and all the expenses related to it. These families who have lost a family member have a terrible void. All of us who have visited with them in our respective States or elsewhere have felt that void and have tried to the extent we could to let them know we share it with them. But, of course, it is uniquely and singularly theirs as they go through their life. Nothing can fill that void. But the least we can do is what we do in this bill—give them some sense of financial security as they go forward, with a kind of security in a much more fundamental sense that their loved one's service has given each and every American.

Theodore Roosevelt once said:

A man who was good enough to shed blood for his country is good enough to be given a square deal afterward.

Of course, in our time we say a man and a woman.

T.R. was right, and the men and women who are shedding blood for our Nation today in the cause of liberty and doing so in a way that has fundamentally improved the security of the American people here at home should know their families will be taken care of no matter what happens to them.

I can't think of a piece of legislation which I have been involved in my over 17 years in the Senate that I have felt better about. This is one of those occasions that doesn't get celebrated quite enough where we forget the party labels, Republican and Democrat, and act in a higher calling, which is our status as Americans which unites us all. I am glad to see we are about to put these reforms in place.

We all recognize we have to keep faith with our service men and women. We have to give them a square deal. They are doing their duty to protect us, and it is our duty to protect their families, should they give their lives in defense of our liberty. That is what the provisions in the supplemental do. I am proud to have been a part of it. I am grateful to my colleagues for supporting it. I urge its adoption.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I associate myself with the comments of Senator LIEBERMAN and say how he expressed my feelings about this important legislation. It has been a pleasure to work with him in a bipartisan way. He has demonstrated time and again his interest in matters of national defense and national security and his commitment to those who serve us. I, too, believe, as was discussed not too long ago at one of the hearings, there is a bond between the American people and those we send out to defend our interests in dangerous areas of the world. We as American people need to honor that bond.

One of the commitments I think we must make as a people is to say to those who go in harm's way to execute the just policies of the United States that if something happens to you, we are going to try to take care of your family. That is one thing you don't need to worry about.

I believe the HEROES bill, as we named it, honoring every requirement of exemplary service, is the legislation that moves us a long way in that regard. I couldn't be more excited. I thank the Appropriations Committee Chairman, Senator COCHRAN, and the ranking member, Senator BYRD, for their support of making this a part of the supplemental.

We certainly have worked hard in trying to gain support from the military community and the Department of Defense which understands exactly how and what we should do to better support those who lose their lives in the service to their country. We did a number of things.

Two years ago, as part of the Defense bill I asked that we put in language to study this. Senator LIEBERMAN and I talked about it. And they put that language in. We have gotten some studies back. We began to figure and think about what we could do to make families more secure in the case of the loss of a loved one. Last year, they completed the study and we began to look at it. The President and the Secretary of Defense responded to our request promptly and, I believe, honestly and objectively.

The Senate report that is before us today recommended increasing the death gratuity benefit from $12,420 to $100,000 for our service members who die on active duty in a combat theater, and then we amended the bill to include those who serve on active duty who lose their lives. It also allows, as I have proposed, for every member of the military to raise the level of coverage under the servicemen's group life insurance which is capped out at $250,000 to $400,000. I believe that is a more legitimate sum for a family suffering this kind of loss.

Additionally, for those serving in the combat zone or a designated contingency, the Department of Defense will pay the member's premium for the first $150,000 of insurance to guarantee they are participants in that program.

The report before us also makes these changes retroactive to cover those who lost their lives since the beginning of the global war on terrorism which began October 7, 2001. Families of our service members who have died since October 7, 2001, will receive a one-time cash payment of $238,000 which is a sum of the added coverage of life insurance, $150,000 more life insurance, coupled with proposed increase of the death gratuity of $88,000.

Finally, the report will place language in the law to require service members to inform their spouses of the level of coverage that may be enacted.

As I conclude my remarks, let me be clear on this issue. There is no amount of compensation that can replace the loss of a loved one. Not for a soldier, not for a police officer, not for a teacher, or a fireman. However, our military service members volunteer to leave their families and engage in a very difficult and dangerous campaign to defeat terrorists and secure peace and prosperity not only for America but for countless millions around the world. The training and operations conducted to ready them for combat are also dangerous and will also be included in the death gratuity section of the report. The enhancements of the death gratuity and SGLI outlined in this bill reflect the risks and dangers faced by our service men and women as they serve us around the world.

The language stays true to what our President requested in the supplemental and what Senator LIEBERMAN and I put in S. 77, the HEROES bill. This report and the death benefits enhancements offered are based on a sound analysis of this highly important and emotional issue. We can never do enough to thank these brave Americans. Each and every one of them who serves us in our military today is a national treasure.

I am thankful and grateful that the Senate has included the HEROES provision in this report, and I look forward to voting on this bill and seeing it enacted into law.

I note that not too many months ago I flew from Baghdad to Kuwait in a C–130 late at night, and there were two flag-draped coffins of soldiers who had given their lives in service to our country. Yesterday, I talked with the daughter, 25 years old, of Sergeant Major Banks. Her mother, a sergeant major in the Army, was one of the soldiers who died in the tragic helicopter crash in Afghanistan recently. I talked to her about her mother, and how much she admired her mother, and to think how she had risen through the ranks to become a sergeant major, growing up in a poor area of Alabama, African American, who inspired her daughter, Shante Banks, as she described her mother's influence on her life. She gave her life serving our country, as many have.

I believe we have done the right thing here. I think it is going to be a good step forward. I have enjoyed the opportunity to work with Senator LIEBERMAN as we have moved this legislation forward.

I thank the President and yield the floor.

The PRESIDING OFFICER (Mr. VITTER). The Senator from South Dakota is recognized.

Mr. THUNE. I thank the Senator from Alabama and the Senator from Connecticut for the great work they have done in recognizing the sacrifice of our men and women who are fighting for freedom's cause in Iraq and Afghanistan and other places around the world. This is important legislation. I am pleased to be able to support their efforts and to see it becomes a matter of law.

(The remarks of Mr. THUNE pertaining to the introduction of S.J. Res. 12 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

I yield the floor and 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. CORZINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 2005

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 1268, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1268) making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

Pending:

Mikulski Amendment No. 387, to revise certain requirements for H–2B employers and require submission of information regarding H–2B nonimmigrants.

Feinstein Amendment No. 395, to express the sense of the Senate that the text of the REAL ID Act of 2005 should not be included in the conference report.

Bayh Amendment No. 406, to protect the financial condition of members of the reserve components of the Armed Forces who are ordered to long-term active duty in support of a contingency operation.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, I was about to call up amendment No. 366, which I am going to pull back from at this point. We are working with a number of subcommittees to get exact language, but I would like to go ahead and frame the debate. Senator BROWNBACK will be joining me.

This is actually the Darfur Accountability Act which we had introduced on the floor at an earlier point. We have 30 cosponsors of the amendment. We will continue to work with the appropriate subcommittees and others to refine the language before we bring it back.

This amendment we will be offering is one that parallels the importance which is now being placed on moving this supplemental, which is absolutely essential to support our men and women in uniform. They deserve our support. We all know that. It is most certain that I will be voting positively with regard to making sure that our deeds and words match in our support of the troops and that we allocate our resources accordingly. That is what the debate on the supplemental is about. I look forward to working on that.

But so, too, there are those the Congress and the administration have already acknowledged are being subjected to acts of genocide, the Black Muslim villagers of Darfur, Sudan. This genocide is being committed by their own countrymen with the support of their Government. It is time for action. Here, too, we need to put our words and deeds into a match. They need to be congruent. This amendment is intended to deal with the emergency, the urgently needed response to this ongoing genocide taking place in Darfur as I stand here, a place where there have been killings of up to 10,000 people every month, 300 to 350 human beings almost every day.

Never have we been so aware of mankind's horrible history, and yet so reluctant to act on its lessons as it applies to this situation in Darfur. This month we are commemorating the 11th anniversary of the Rwandan genocide. ''Hotel Rwanda,'' the movie, is showing on thousands of screens in homes across the country, and we continue to recall our shameful failure to prevent the slaughter of 800,000 people. Do we need to have a play 5 years from now or 10 years from now called ''Hotel Darfur''?

April 17 marks the 30th anniversary of the Khmer Rouge takeover in Cambodia, the beginning of a genocide that killed between 1 and 2 million people. Do we need to revisit the killing fields? In January, the liberation of Auschwitz was commemorated by the Congress and by a special session of the United Nations General Assembly. Throughout all of these commemorations and remembrances, we hear the same words: Never again. Never again will we accept the slaughter of our fellow human beings. Never again will we stand by and let this happen.

As Vice President CHENEY said eloquently at the Holocaust commemorations in Poland:

[We] look to the future with hope—that He may grant us the wisdom to recognize evil in all its forms . . . and give us courage to prevent it from ever rising again.

There is perhaps no more powerful moral voice over the last half century than author and Holocaust survivor Elie Wiesel. Last year he spoke to the Darfur issue.

He said:

How can a citizen of a free country not pay attention? How can anyone, anywhere not feel outraged? How can a person, whether religious or secular, not be moved by compassion? And above all, how can anyone who remembers remain silent? That is what the issue in Darfur, Sudan, is about. That is why this Darfur Accountability Act—this amendment that we are speaking to today—is so important.

I ask unanimous consent that the full remarks by Mr. Wiesel on Darfur be printed in the RECORD.

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

[Remarks delivered at the Darfur Emergency Summit, New York, July 14, 2004]

ON THE ATROCITIES IN SUDAN

(By Elie Wiesel)

Sudan has become today's world, capital of human pain, suffering and agony. There, one part of the population has been—and still is—subjected by another part, the dominating part, to humiliation, hunger and death. For a while, the so-called civilized world knew about it and preferred to look away. Now people know. And so they have no excuse for their passivity bordering on indifference. Those who, like you my friends, try to break the walls of their apathy deserve everyone's support and everyone's solidarity.

This gathering was organized by several important bodies. The U.S. Holocaust Memorial Museum's Committee on Conscience (Jerry Fowler), the Graduate Center of the City University of New York, the American Jewish World Service (Ruth Messinger) and several other humanitarian organizations.

As for myself, I have been involved in the efforts to help Sudanese victims for some years. It was a direct or indirect consequence of a millennium lecture I had given in the White House on the subject, ''The Perils of Indifference''. After I concluded, a woman in the audience rose and said: ''I am from Rwanda.'' She asked me how I could explain the international community's indifference to the Rwandan massacres. I turned to the President who sat at my right and said: ''Mr. President, you better answer this question. You know as well as we do that the Rwanda tragedy, which cost from 600,000 to 800,000 victims, innocent men, women and children, could have been averted. Why wasn't it?'' His answer was honest and sincere: ''It is true, that tragedy could have been averted. That's why I went there to apologize in my personal name and in the name of the American people. But I promise you: it will not happen again.''

The next day I received a delegation from Sudan and friends of Sudan, headed by a Sudanese refugee bishop. They informed me that two million Sudanese had already died. They said, ''You are now the custodian of the President's pledge. Let him keep it by helping stop the genocide in Sudan.''

That brutal tragedy is still continuing, now in Sudan's Darfur region. Now its horrors are shown on television screens and on front pages of influential publications. Congressional delegations, special envoys and humanitarian agencies send back or bring back horror-filled reports from the scene. A million human beings, young and old, have been uprooted, deported. Scores of women are being raped every day, children are dying of disease hunger and violence.

How can a citizen of a free country not pay attention? How can anyone, anywhere not feel outraged? How can a person, whether religious or secular, not be moved by compassion? And above all, how can anyone who remembers remain silent?

As a Jew who does not compare any event to the Holocaust, I feel concerned and challenged by the Sudanese tragedy. We must be involved. How can we reproach the indifference of non-Jews to Jewish suffering if we remain indifferent to another people's plight?

It happened in Cambodia, then in former Yugoslavia, and in Rwanda, now in Sudan. Asia, Europe, Africa: Three continents have become prisons, killing fields and cemeteries for countless innocent, defenseless populations. Will the plague be allowed to spread?

''Lo taamod al dam réakha'' is a Biblical commandment. ''Thou shall not stand idly by the shedding of the blood of thy fellow man.'' The word is not ''akhikha,'' thy Jewish brother, but ''réakha,'' thy fellow human being, be he or she Jewish or not. All are entitled to live with dignity and hope. All are entitled to live without fear and pain.

Not to assist Sudan's victims today would for me be unworthy of what I have learned from my teachers, my ancestors and my friends, namely that God alone is alone: His creatures must not be.

What pains and hurts me most now is the simultaneity of events. While we sit here and discuss how to behave morally, both individually and collectively, over there, in Darfur and elsewhere in Sudan, human beings kill and die.

Should the Sudanese victims feel abandoned and neglected, it would be our fault—and perhaps our guilt.

That's why we must intervene.

If we do, they and their children will be grateful for us. As will be, through them, our own.

Mr. CORZINE. Tragically, since that speech by Mr. Wiesel, we have seen precious little actionable courage in preventing the genocide that rages in Darfur. Last July, the Congress recognized that genocide is taking place and voted on it here on the floor of the Senate. In September, the Bush administration did the same. Yet, since then, the situation has only deteriorated.

Estimates of the death toll in Darfur now range from between 250,000 to over 300,000 human beings. Killings, torture, destruction of villages, rape and other forms of sexual violence all continue. More than 1.8 million persons have been forced from their homes, and unless the attacks subside and access by humanitarian organizations improves, as many as 3 million Sudanese people could be displaced by the end of the year.

Let me say that these displaced individuals are going into camps strategically. We need to understand that this is not breeding a community of good will to the rest of the world. These are people who are disenfranchised, dislocated, and will pose a strategic threat, potentially, as a breeding ground of terrorism for the future.

This tragedy is that the Government of Sudan remains deeply complicit in this genocide, supporting jingaweit militias and participating in attacks on civilians. Helicopter gunships strafe villages, spraying nail-like flachettes unsuitable for anything other than killing.

International monitors of all kinds have been attacked, including members of the African Union force deployed to Darfur to try to bring about a monitoring of the peace agreements that have been set forth. Government-backed militias have threatened foreigners and U.N. convoys.

In recent weeks, an American aid official was shot and wounded, and the U.N. was forced to withdraw its international staff in west Darfur to the provincial capital. Other NGOs are uneasy about their people and are talking about withdrawal.

Even today, we get reports of a new rampage—an attack on a village in Darfur by 350 armed militia. The report by the UN and the AU called it a ''senseless and premeditated savage attack.'' The militia ''rampaged through the village, killing, burning and destroying everything in their paths and leaving in their wake total destruction, with only the mosque and the school spared.''

I have a U.N. report, and I ask unanimous consent that it be printed in the RECORD.

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

[From UN News Service, Apr. 8, 2005]

UN, AFRICAN UNION CONDEMN ''SAVAGE ATTACK'' ON DARFUR VILLAGE BY ARMED MILITIA

United Nations and African Union representatives today condemned a ''senseless and pre-meditated savage attack'' Thursday on a town in the western Darfur area of Sudan by more than 350 armed militia while the Government dragged its heels in designating land for the AU monitoring force meant to deter such incidents.

Having learnt ''with utter shock and disbelief'' of the relentless daylong attack on Khor Abeche by armed militia of the Miseriyya tribe of Niteaga, ''we condemn this senseless, and pre-meditated savage attack,'' Jan Pronk, the Special Representative of UN Secretary-General Kofi Annan, and AU Ambassador Baba Gana Kingibe said in a joint statement.

Nasir Al Tijani Adel Kaadir was identified as having commanded the initial force of over 200 on horses and camels and they were later reinforced by a further 150, also from Niteaga, they said in a statement.

His name and those of his collaborators would be sent to the UN Security Council sanctions committee to be brought to justice and they expected the Sudanese Government to take appropriate action, the two said.

The attackers ''rampaged through the village, killing, burning and destroying everything in their paths and leaving in their wake total destruction with only the mosque and the school spared,'' their statement said.

''This attack, the savagery of which has not been seen since the sacking of Hamada in January 2005, was apparently in retaliation for the alleged theft of 150 cattle whose tracks were supposedly traced to Khor Abeche village,'' Mr. Pronk and Mr. Kingibe said.

They noted that since 3 April the AU had prepared to deploy troops in Niteaga and Khor Abeche to deter precisely this kind of attack, ''but was prevented from acting by what can only be inferred as deliberate official procrastination over the allocation of land for the troops' accommodation.''

Mr. CORZINE. Mr. President, how has the international community responded to these issues? In recent weeks, the U.N. Security Council passed three resolutions. To be sure, to give them credit, there has been some progress. One resolution referred the situation in Darfur to the International Criminal Court. Another established a U.N. committee to recommend targeted sanctions against those responsible for human rights abuses.

But much has not been done. There have been no efforts to impose, or even seriously threaten, sanctions against the Government of Sudan. In fact, the Security Council promised significant assistance as a reward for the welcomed implementation of the January peace agreement, the north-sought agreement between Khartoum and the south, without any conditions related to Darfur. Our amendment, which Senator BROWNBACK and I will be proposing, supports the peace agreement and allows assistance to implement that agreement. But we should not be rewarding the Government of Khartoum while thousands upon thousands of civilians in Darfur are dying.

This amendment will call for military no-fly zones over Darfur. Neither the Bush administration nor our NATO allies have addressed this critical issue. We need to act so that the kinds of tragedies we see in this picture to my right are no longer permitted.

This amendment calls for accelerated assistance to the African Union. A retired Marine colonel, Brian Steidle, who worked alongside the AU, has described the AU's effectiveness where it has been deployed. But there are currently only 2,200 African Union troops on the ground. Over 3,400 are authorized, and we hope it can grow to over 6,000 in the next year. We need to increase their numbers and provide whatever assistance they need. Therefore, I am offering a second amendment later in the debate on this underlying supplemental with Senators DEWINE, BROWNBACK, and others. It is a money appropriation or allocation for the AU to accelerate the deployment of boots on the ground.

But money alone will not bring security to Darfur. The Darfur Accountability Act calls for an expansion of the AU's mandate to include the protection of civilians. Ultimately, we will have to be realistic about what it takes to police an area the size of Texas. It will take many thousands of troops, more than the AU will be able to field. The 10,000 new U.N. troops authorized by the Security Council are therefore a welcome development. But, again, their role in Darfur is virtually undefined, certainly vague and uncertain as to whether they can be involved in this.

Mr. President, the people of Darfur will not be saved unless stopping genocide becomes a priority. Words and deeds need to match. This amendment will call on the administration to raise Darfur in all relevant bilateral and multilateral meetings. I hope we can get it raised.

I am pleased that Deputy Secretary of State Zoellick is going to Sudan this week. But unless we mobilize an international effort, this engagement will be insufficient. We have already seen a lot of lost opportunities. I will leave that for the record where President Bush, Secretary of Defense Rumsfeld, and the Secretary of State have been in international areas where we can mobilize that kind of support. We simply cannot just keep calling it genocide and labeling it and talking about it; we need to do something about it. Stopping this evil is an urgent and highly moral issue for all of us to take on. That is why there is so much bipartisan focus on this issue.

We want to evoke the culture of life. We ought to be protecting those 10,000 people a month who are dying. How can we claim to be learning the lessons of history when we fail to act? How can we do that? We cannot continue to talk about moral responsibilities and then not act on them.

In his remarks in the piece that I put in the RECORD, Elie Wiesel put this clearly:

What pains and hurts most now is the simultaneity of events. While we sit here and

discuss how to behave morally, both individually and collectively, over there, in Darfur and elsewhere in Sudan, human beings kill and die.

Mr. President, we must act. The United States must lead a coalition of conscience to stop the genocide. That is what this amendment calls for. I urge my colleagues to support it. We will be back with the exact details. I am very appreciative of the leadership of Senator BROWNBACK, Senator DEWINE, and a number of individuals on both sides of the aisle. We need to make that coalition of conscience real. It is time to act. I believe this is an appropriate amendment on the supplemental.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, I am delighted to join my colleague from New Jersey on this amendment. I think by definition a supplemental is about emergency needs and emergency spending. I don't know of a bigger one taking place right now in the world than in Darfur. So it is my hope that within this supplemental we will be able to deal with this issue of Darfur, both in funding and in some language to be able to stop this. This is a completely manmade genocide; it is a completely manmade disaster. It is one that can be stopped with a reasonable number of troops on the ground, with a reasonable engagement strategy.

This can stop. Instead of the 300,000 deaths going on up, this can and will stop. They need food aid, and they need allocation of funds for African Union forces. We will have Assistant Secretary Zoellick on the ground in Khartoum. He is going to go to the south, and then to the western part of Sudan after that, to look and to press the situation. The administration is engaged and is pushing. We need to do this in the supplemental. It is important for it to take place.

Lest people think this was last year's disaster that we are just putting forward more now and saying wasn't that terrible then, we should have acted, I want to show you pictures from this year. Senator CORZINE showed pictures earlier. This is of a village; it was taken by African Union monitors. It is completely burned out, razed. You can still see the smoke smoldering. This was taken by monitors, and they got there just after the village was burned.

I have some very graphic pictures I am going to be showing. If people don't want to see them, please turn away. It is the face of genocide. Genocide, by definition, involves the killing of one group of people by another. That is taking place and is taking place now. This is a young child who was shot in the upper right portion of the torso, and it exits here. You can see the gash here. We don't know if this child lived or died. He probably died given the state of health care there. This happened after a raid that took place. This is a child shot in a raid because he was an African child.

This is a gentleman who was killed and burned.

This is a village that is on fire. Someone in a helicopter took this picture, supported by the African Union.

These are all current pictures.

This one I believe my colleague showed as well. It is of a gentleman who was tied up, killed, and probably brutalized in Darfur.

These are the faces, and this is the picture of genocide. It is continuing to occur, and it is occurring now. I encourage my colleagues to vote for the passage of the amendment Senator CORZINE and I and others are putting forward. It is an amended version of the Darfur Accountability Act. It has the wide bipartisan support of 30 members. The amendment calls for several steps to be taken, which my colleague outlined: a new U.N. Security Council resolution with sanctions against the Government of Sudan; an extension of the current arms embargo to cover the Government of Sudan; military no-fly zone over Darfur; expansion of the U.N. mission in the Sudan; and a mandate to protect civilians in all of Sudan, which includes Darfur. It calls on the United States to appoint a Presidential envoy to Sudan and to raise this issue at the highest diplomatic levels in bilateral relations with Sudan, the Chinese, and other governments that can be of assistance. This calls for accelerated assistance to the African Union mission in Darfur and an expansion of the size and mandate of the mission necessary to protect civilians.

In addition, I hope the administration will push for a coalition of conscience. My colleagues mentioned a coalition of willing nations to join the efforts and demand an end to the genocide by making a declaration of conscience and backing it by actions if the U.N. Security Council fails to do so.

Last week was the 11th-year anniversary of the genocide in Rwanda, when we declared and the world declared ''never again.'' We are now seeing it take place yet again. Can we learn from that? This is stoppable, and it is not by a huge commitment. We are not asking for 100,000 U.S. troops to go there. We are not asking for any U.S. troops. We are asking for financial support for the African Union and food aid to be able to maintain the villagers who have been run out of their village. With that, we believe firmly that this can and will stop and that people will be able to return to their villages.

Time is of the essence. Every day in this harsh climate in this region is a day that more people die. There simply are not the resources in the area to be able to support the individuals who are involved.

My colleague covered most of the points. I plead with my colleagues to pass this amendment in the supplemental. It is an emergency need. It is an emergency that is taking place. With this, we will be able to save lives. Keep it in the conference report so it gets to the President, it gets implemented and the help does come, so when Secretary Zoellick returns from the region, he will have this level of resources to work with, he will have this commitment from the Congress to work with, and we will be able to move forward.

If the U.N. fails to act—and I am terribly disappointed in what the U.N. is doing in this situation; they are not doing anything at all—the United States must press forward with those willing to act so the genocide can stop, so the killing will stop, so we can move forward with peace and people can go back to their lives.

I hope people can start to feel and see some of that pain in front of our very eyes that we can stop. We can stop this. I plead with my colleagues to please stop it and support this amendment.

I do believe we will get this passed. We need to pass it. I hope it is kept in the bill through the entire process.

I yield the floor, and 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. BROWNBACK. 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. BROWNBACK. Mr. President, I add one postscript on this Darfur Accountability Act. The House has language dealing with Darfur. We did not have as much of it in here. It is two parts: food and military assistance. We are working closely with the committee to try to get this worked through. It will not go over the amount that is in it. It will be offset in other places within the budget. I want to make sure that is clear to my colleagues who are interested in this. They are supportive, but they do not want to bust the supplemental caps. This will be taken from other places we are working on right now.

Senator MCCONNELL, Senator COCHRAN, and other of our colleagues are working diligently with us. It is in two places as far as food aid and its assistance to peacekeepers. These will be African Union peacekeepers. So I want to get the practicalities of it out.

I also admonish my colleagues that where we sit as the most powerful Nation on the face of the Earth, we are called on to remember those who are in bondage as if we were in bondage ourselves. That may seem a strange concept, but when others are free, we are free. If others are in bondage, we are going to feel those chains and it will constantly rub against our souls. This is something that is important and it is also historic for us.

When we fought against slavery in this country, the issue was that the bondage of others was our bondage and people felt it, they fought against it. It is in the great heritage of this country to fight for freedom for other people, so

that when they are in bondage we feel that, but when we can help break that, we will also break bondages on ourselves and make us use the greatness of America for the goodness of the world. It is that goodness that keeps us moving toward greatness.

This is not a large sum of money we are talking about, but it is critically important.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I salute the Senator from Kansas. I know he and the Senator from New Jersey have demonstrated extraordinary leadership on many issues that have come before this Senate, but certainly on the Darfur Accountability Act. I am an original cosponsor of that bipartisan measure and a strong supporter.

The latest estimates tell us more than 300,000 people have died in Darfur. The world has let this happen. In spite of all of our anguished promises after Rwanda that this would never happen again, it is happening again. Reports from aid workers back from Sudan state that attacks on the ground are still taking place. Villages are still being burned. Much of Darfur is still in a climate of terror. People are still afraid to go out for basics, to venture out for water, for wood, or the necessities of life.

Early this week, Human Rights Watch released a new report that Sudanese security forces, including police deployed to protect displaced persons, and allied jingaweit militias continue to commit rape and sexual violence on a daily basis. Refugee camps are no refuge. Women who fled Darfur to refugee camps in Chad have been imprisoned by Chadian authorities for trying to collect firewood outside their camps. Many of them were raped while in jail.

This has become a charnel house. This is an inferno. This is one of the rings of hell, and it is happening on our watch.

In some areas of Sudan, women who are raped by the jingaweit militia are now being threatened with prosecution. In short, Darfur still cries out for action. If these conditions do not constitute an emergency, I do not know what does.

Do we want to return to the Senate 6 months from now and lament the fact that another 300,000 victims have been added to the death tolls in this area? The amendment which will be offered later seeks a new U.N. Security Council resolution with sanctions, concerted United States diplomacy, an extension of the current arms embargo to cover the Government of Sudan, the freezing of assets and denial of visas to those responsible for genocide, crimes against humanity and war crimes, accelerated assistance of the African Union Mission, and a military no-fly zone in Darfur.

One of the other components of this amendment is the appointment of a new special envoy to seek peace in Sudan to fill the role Ambassador Danforth played so well. As in many things, Pope John Paul II was ahead of this. He sent a special envoy last year so that voices of the people of Darfur might be heard.

The Bible tells us: Blessed be the peacemaker. We need to be peacemakers today. Let us hold the Government of Sudan accountable for its crimes and for these atrocities. Let us help the people of Darfur, and in doing so let us help to end this genocide.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. COCHRAN. Mr. President, I have requests to make on behalf of the managers of the bill with respect to amendments that have been cleared on both sides of the aisle.

The PRESIDING OFFICER. The Senator is recognized.

AMENDMENT NO. 422

Mr. COCHRAN. I send an amendment to the desk, on behalf of Mr. LEAHY and Mr. OBAMA, and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. LEAHY and Mr. OBAMA, proposes an amendment numbered 422.

Mr. COCHRAN. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 194, line 14, delete ''should'' and insert in lieu thereof ''shall''.

On page 194, line 16, delete ''Avian flu'' and insert in lieu thereof ''avian influenza virus, to be administered by the United States Agency for International Development''.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 422) was agreed to.

Mr. COCHRAN. I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 370, AS MODIFIED

Mr. COCHRAN. Mr. President, I call up amendment No. 370, as modified, on behalf of Mr. SALAZAR, concerning democracy assistance for Lebanon.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. SALAZAR, proposes an amendment numbered 370, as modified.

Mr. COCHRAN. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide assistance to promote democracy in Lebanon)

On page 175, on line 24, strike ''$1,631,300,000'' and insert ''$1,636,300,000''. On page 176, line 12 after the colon insert the following: ''*Provided further*, That of the funds appropriated under this heading, not less than $5,000,000 shall be made available for programs and activities to promote democracy, including political party development, in Lebanon and such amount shall be managed by the Bureau of Democracy, Human Rights, and Labor of the Department of State:''.

On page 179, line 24, strike ''$30,500,000'' and insert ''$25,500,000''.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 370), as modified, was agreed to.

Mr. COCHRAN. I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 423

Mr. COCHRAN. Mr. President, I now send an amendment to the desk, on behalf of Mr. LEAHY, providing reprogramming authority for certain State Department accounts. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. LEAHY, proposes an amendment numbered 423.

Mr. COCHRAN. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide reprogramming authority for certain accounts in the Departments of Commerce, Justice, State, the Judiciary, and Related Agencies Appropriations Act, 2005)

On page 183, after line 23, insert the following new general provision:

SEC. —. The amounts set forth in the eighth proviso in the Diplomatic and Consular Programs appropriation in the FY 2005 Departments of Commerce, Justice, State, the Judiciary, and Related Agencies Appropriations Act (P.L. 108–447, Div. B) may be subject to reprogramming pursuant to section 605 of that Act.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 423) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to and move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 361

Mr. COCHRAN. Mr. President, I now send an amendment to the desk, on behalf of Mr. REID and Mr. LEVIN, regarding retired pay and veterans disability compensation, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. REID, for himself, and Mr. LEVIN, proposes an amendment numbered 361.

Mr. COCHRAN. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To express the sense of the Senate that veterans with a service-connected disability rated as total by virtue of unemployability should be treated as covered by the repeal of the phase-in of concurrent receipt of retired pay and veterans disability compensation for military retirees)

On page 169, between lines 8 and 9, insert the following:

SENSE OF SENATE ON TREATMENT OF CERTAIN VETERANS UNDER REPEAL OF PHASE-IN OF CONCURRENT RECEIPT OF RETIRED PAY AND VETERANS DISABILITY COMPENSATION

SEC. 1122. It is the sense of the Senate that any veteran with a service-connected disability rated as total by virtue of having been deemed unemployable who otherwise qualifies for treatment as a qualified retiree for purposes of section 1414 of title 10, United States Code, should be entitled to treatment as qualified retiree receiving veterans disability compensation for a disability rated as 100 percent for purposes of the final clause of subsection (a)(1) of such section, as amended by section 642 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1957), and thus entitled to payment of both retired pay and veterans' disability compensation under such section 1414 commencing as of January 1, 2005.

Mr. REID. Mr. President, I rise today to speak on the issue of concurrent receipt and the Bush administration's unfair attempt to continue to restrict some of our Nation's veterans from receiving the full pay and benefits they have earned.

We have debated the ban on concurrent receipt for many years. It is an unfair and outdated policy that I and many others in this Chamber have worked hard to end.

Over the years, we have made some progress.

In 2003, the Congress passed my legislation which allowed disabled retired veterans with at least a 50-percent disability rating to become eligible for full Concurrent Receipt benefits over a 10-year period. This was a significant victory, and as a result of the legislation, hundreds of thousands of veterans today are on the road to receiving both their retirement and disability benefits.

And we made further progress last year, with the help of Senator LEVIN and others, when we were able to eliminate the 10-year phase-in period for the most severely disabled veterans—those who were 100 percent disabled. A 10-year waiting period was particularly harsh for these veterans, some of whom would not live to see their full benefits restored over the 10-year period, and others who could not work a second job and were in fact considered ''unemployable.'' So we passed legislation to end the waiting period and provide some relief to these deserving, totally disabled veterans.

Unfortunately, the administration's implementation of this legislation has created a new inequity by discriminating between two categories of totally disabled retirees.

There are those veterans who have been awarded a 100 percent disability rating by the VA and those whom the VA has rated ''totally disabled''. The veterans considered totally disabled are paid at the 100 percent disabled rate. This is because the VA has certified that their service-connected disabilities have left them unemployable.

I ask unanimous consent to have printed in the RECORD a letter sent by the Defense Department to the Office of Management and Budget on this issue last December.

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

(See exhibit 1.)

Mr. REID. The letter indicates clearly the Defense Department General Counsel's opinion that both of these groups should be paid their full retired pay and disability compensation under the law Congress passed last year, and it requested permission from OMB to execute the payments to unemployables.

That permission apparently was not forthcoming, since the Pentagon is still withholding payments for the ''unemployable'' group after all these months—contrary to its own General Counsel's legal review.

For all other purposes, both the VA and the Defense Department treat unemployables exactly the same as those with 100 percent disability ratings.

In fact, these unemployables must meet a criterion that not even the 100 percent-rated disability retirees have to meet. They are certified as unable to work because of their service-connected disability. The administration pays equal combat-related special compensation to both categories. Yet the administration is discriminating unemployables and 100 percent disabled retirees with noncombat disabilities in flagrant disregard for the letter of the law as interpreted by its own legal counsel.

The time to act is now.

As we stated last year, these veterans do not have 10 years to wait for the full phase-in of their benefits. The administration needs to act quickly.

Hopefully, the expression of the Senate contained in this bill will clarify the intent of the Congress so those most severely disabled veterans will begin to reap the benefits of last year's legislation.

EXHIBIT 1

OFFICE OF THE
UNDER SECRETARY OF DEFENSE,
Washington, DC, Dec. 21, 2004.

Dr. KATHLEEN PEROFF,
Deputy Associate Director for National Security, Office of Management and Budget, Washington, DC.

DEAR MS. PEROFF: This letter is to advise your office of how the Department intends to compensate members for full concurrent payment of military retired pay in addition to their Veterans' Affairs (VA) disability compensation under the provisions of section 1414 of title 10, United States Code, as amended by section 642 of the Ronald Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375). Section 642 eliminated the phase-in period for those retirees/veterans determined by the Department of Veterans Affairs to have a disability or combination of disabilities rated as 100 percent disabled.

An issue has arisen as to whether this change in the law includes those who are rated as less than 100 percent disabled, but for whom a rating of 100 percent (total) disability is assigned by the VA because the individual is deemed unemployable. Based on a legal review of the relevant statutory authority and legislative intent language (10 U.S.C. 1414; H. Rept. 108–767), we intend to consider these unemployable retirees/veterans covered by the exemption to the phase-in period and grant them full concurrent payments beginning January 1, 2005.

The determination to include these unemployable retirees/veterans will result in an added cost of about $1.3 billion in Military Retirement Fund (MRF) outlays over the course of the phase-in period. It will not affect costs after the phase-in period or carry any added increase in accrual costs. Further, all the added cost of full concurrent receipt is passed directly to the Treasury for payments to the MRF. While verbal communication with relevant congressional committee staff suggests that Congress may not have intended to exempt from the phase-in period those unemployable retirees/veterans compensated for 100 percent disability, neither the amended stature nor legislative intent language support this position.

We plan to issue guidance to the Defense Finance and Accounting System and the Services on the matter as quickly as possible. Please advise us if the Administration has any differing views.

Sincerely,

CHARLES S. ABELL.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 361) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 424

Mr. COCHRAN. Mr. President, I now send an amendment to the desk, on my own behalf, to make a technical correction to the bill. I ask it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN] proposes an amendment numbered 424.

Mr. COCHRAN. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 219 of the bill, line 16, strike ''or'' and insert ''and'';

On page 219 of the bill, line 17, after ''and'' insert ''seismic-related''.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment

The amendment (No. 424) was agreed to.

Mr. COCHRAN. I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

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

AMENDMENT NO. 387

Mr. LEAHY. Mr. President, I notice we have been in a quorum call and realize I am not taking time from others. I thought this might be a good time to note that I am a cosponsor of the Mikulski amendment.

We all know, from the discussion we had yesterday with the distinguished Senator from Maryland and others, that the amendment makes additional visas available for aliens who wish to perform seasonal work in the United States. We are well aware of that in my State of Vermont. We are also aware of the fact that for the second year in a row the statutory cap on so-called H–2B visas was met before businesses that needed additional summer employees were even eligible to apply for visas.

This is kind of a catch-22. They are told they have to wait for a period of time to be eligible to apply for the visas, and then when the time comes, the visas are already used. It has hurt businesses across the country. This amendment would provide needed relief.

In Vermont, many hotels and inns and resorts that have a busy summer season use these visas. I have heard from dozens of these businesses in Vermont over the past year. They have struggled mightily to manage without temporary foreign labor. I know the Lake Champlain Chamber of Commerce, the Vermont Lodging & Restaurant Association, and many small businesses in Vermont are vitally concerned, and I expect similar associations and businesses in the other States are as well.

It is interesting, one of the places I have heard from is a summer business where I worked when I was working my way through college. I know even then, in our little State, to keep it open, to go forward, they needed those foreign workers.

You have a wide range of industries that use these visas. This is not a parochial issue. It is not just Vermont. I suspect the same argument, one way or the other, could be made in virtually every State. I would be surprised if there is any Senator who has not heard from a constituent who has been harmed by the sudden shortage of H–2B visas. Many of them fear they are going to go out of business altogether if Congress does not make these visas available.

Now, the amendment would not raise the cap on the program but would allow those who had entered the United States in previous years through the H–2B program to return. It seems to be a very fair, very reasonable compromise. After all, these are people, by definition, who came to the United States legally. Then, after coming to the United States legally, they returned to their own countries legally, as they are required to do. The amendment also addresses those concerns some Members have expressed about fraud.

I have been working to solve this crisis for more than a year. I joined, last year, with a very substantial coalition of both Republican and Democratic Senators in introducing S. 2252, the Save Summer Act of 2004. This was going to increase the cap on the H–2B program. Unfortunately, there was a small number of Republican Senators who opposed it, so they put a hold on it. It was never allowed to have a vote. Our constituents suffered the consequences.

This year, I have urged the Mikulski-Gregg bill, on which this amendment is based, S. 352, be considered by the Judiciary Committee without delay. It is a bipartisan bill. It deserves to win a broad majority in this body. But this is not one of these things we can talk about and delay and delay and delay on throughout the spring and summer. Many of these businesses, if they are even going to open their doors, if they are going to stay in business this year, need the relief today.

Most of them are small businesses. An awful lot of them—I know the owners in my State; I suspect Senator GREGG from New Hampshire knows them in his State—are people who work very hard, with 80- and 90-hour weeks. They are sort of mom-and-pop operations. They own their businesses, and they need this seasonal help or they go out of business. If they go out of business, the other people they hire year-round are out of a job, and the local community has lost a significant place.

We should move forward. These are people relying on us. I do not know the politics of any of these people. I do not care. They are relying on us to help keep their businesses afloat.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. 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.

AMENDMENT NO. 427

Mr. DURBIN. Mr. President, those following the debate on the floor understand we are considering the supplemental appropriations bill that deals with the war in Iraq and Afghanistan, the tsunami relief, and some other very important elements. I understand there are pending amendments and also an effort to reach an agreement about how future amendments will be offered. So even though I will not be offering an amendment at this time, I would like to say a few words about an amendment which I plan to offer as soon as an agreement is reached and to alert my colleagues and those following the debate what we are seeking to achieve.

This amendment, which I am proud to cosponsor with Senator KENNEDY and Senator LEVIN, relates to troop training in Iraq. I thank the chairman and ranking member for their hard work on the bill. I believe it is imperative we continue to support our troops and address other emergencies in the world, including the devastating tsunami that swept across the Pacific right after Christmas.

We fully support our troops. We also want to see them come home. Training Iraqi troops to take the lead in Iraq is critical to our success in that country and to getting our service men and women back where they belong—with their families at home. Therefore, we are offering an amendment today to measure our progress toward that goal.

In this bill, the Senate is appropriating $5.7 billion for the Iraqi Security Forces Fund. The accompanying committee report states:

The funds shall be available to train, equip, and deploy Iraqi security forces as well as provide increased counterinsurgency capabilities.

That is certainly very good. Our troops cannot come home until Iraqi forces can hold their own.

When I was in Iraq just a few weeks ago, General Petraeus took us from the Baghdad airport to a training field nearby, where we saw about 12 Iraqi soldiers who were masked to hide their identity for fear of retribution from their fellow Iraqis as they went through training drills.

I have not been in the military. I can't grade these troops as to their progress. It certainly appeared that they were learning important skills. How many troops in Iraq are reaching that level of competence, I can't say. That is the purpose of the amendment.

Iraqi forces and police must be able to take the lead in conducting counterinsurgency operations. They must be able to protect their own borders, safeguard civilian populations, uphold and enforce the rule of law. When I met with General Petraeus, he said he believed he was making progress toward that goal, but I think

we need to have a better metric to evaluate. We have received mixed messages and mixed information and statistics from the administration about how many Iraqis are trained and what their training really means.

Recent figures we received from the Department of Defense tell us that 136,000 Iraqis have been officially trained and equipped, but it is still not clear what that means. Does it mean that 136,000 Iraqi police, military, and border personnel are ready to defend their country, to protect its citizens and borders? Are they ready to take on and defeat the serious insurgent threat against American troops and Iraqis?

A March GAO study was very skeptical about the numbers. Joseph Christoff, Director of the GAO, testified before the House Government Reform Committee that:

Data on the status of Iraqi security forces is unreliable and provides limited information on their capabilities.

That was a result of a GAO report of the progress being made by our Department of Defense. We need answers to basic questions. That is why we are offering the amendment—Senator KENNEDY, Senator LEVIN, and I—requiring the Department of Defense to assess unit readiness of Iraqi forces and evaluate the effectiveness and status of training of police forces.

Our amendment is straightforward. It is a reporting requirement asking for regular assessments of both the military forces and the police who are being trained with our tax dollars. This is simply accountability. As American tax dollars go into Iraq for the training of forces, American taxpayers have the right to know whether we are making progress. Are we meeting our goals? The GAO report indicated, for example, substantial desertions from the ranks of police in Iraq, the number in perhaps the tens of thousands. That is something we need to know if it continues. We need to know how many battalions of soldiers are trained, how effectively they can operate. They face a fierce insurgency. Are they ready for battle? We want to give them the tools to successfully confront it.

Finally, we also ask for an assessment of how many American forces will be needed in 6, 12, and 18 months. We are not imposing a deadline. What we are doing is saying to the administration: Tell us on the one hand the level of success which you are experiencing in training Iraqis to defend their own country and tell us what it means in terms of American forces. When can we expect troops to start returning if this Iraqi training is successful?

As Iraqi troop training expands and improves, we certainly hope American troops will come home. We all want to see progress in Iraq. I want to be able to measure it in a way that everyone in Congress—and certainly everyone across the country—knows we are making meaningful progress.

Mr. KENNEDY. Mr. President, will the Senator from Illinois yield for a question?

Mr. DURBIN. Yes, I am happy to.

Mr. KENNEDY. The Senator points out the part of the amendment which is asking for an estimate of the number of troops. I am a member of the Armed Services Committee. This issue has come up in a number of different contexts. We are talking about an estimate. We are looking for an estimate in 6 months and 12 months and 18 months. I am just wondering whether the Senator from Illinois saw the New York Times on April 11 where General Casey, top commander in Iraq, told CNN a week ago that if all went well, ''we should be able to take some fairly substantial reductions in the size of our forces.'' And another senior military official said American forces in Iraq could drop to around 105,000 by early next year from 142,000 now.

Clearly, there are estimates that are being considered. It seems that the American people would like to know what these numbers are rather than reading them in the paper. I believe that is what the purpose of the amendment is—to try to communicate to the American people what the best judgment is in terms of the troops. Estimates can vary. As authors of the amendment, we understand that. But I do thank the Senator for referring to the GAO report, the fact that the GAO report of March 14 said that U.S. Government agencies do not report reliable data on the extent to which the security forces are trained and equipped. The number of Iraqi police is unreliable, and the data does not exclude police absent from duty.

All we are trying to do is to get estimates for the American people. Am I correct?

Mr. DURBIN. The Senator from Massachusetts is correct. He makes a valuable point. When we in Congress ask the Department of Defense, how are we doing in terms of training troops for the Iraqi side, what are your guesses and best estimates in terms of when American troops can come home, many times they tell us, we can't share that information. They give us widely different numbers.

The Senator from Massachusetts makes the point that spokesmen for the U.S. military apparently speak to the media frequently, volunteering information about how quickly troops can come home to the United States. If it is good enough for CNN, should it not be good enough for the USA; should not American taxpayers be given this information? I think we want to know that.

I understand that we have to stay the course and finish our job. I am committed to that, even though I shared Senator KENNEDY's sentiments about the initiation of the invasion. One of the problems with the insurgency is the question of whether we are a permanent occupying force. I hope we make it clear to the Iraqis that we are there to finish the job, to stabilize their country, and come home. As we start moving down the line on this amendment, which the Senator from Massachusetts and Senator LEVIN have cosponsored, we are going to be moving toward that goal and delivering the right message.

Mr. KENNEDY. I thank the Senator. I agree with his conclusions. Many of us believe this will be enormously helpful in trying to establish the independent Iraq that all of us would like to see. But I thank the Senator for bringing up this matter.

This follows other evidence that we have had at other times in Defense appropriations legislation, basically to provide this kind of information to the parents, to the military. We are looking for a best judgment, best estimate. Clearly, today the military is thinking in those terms. I believe we ought to have some opportunity to share that information.

I thank the Senator from Illinois for offering this amendment.

Mr. DURBIN. Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER (Mr. MARTINEZ). Is there objection to setting aside the pending amendment?

Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself, Mr. LEVIN, Mr. KENNEDY, Mr. BYRD, and Mr. LEAHY, proposes an amendment numbered 427.

Mr. DURBIN. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To require reports on Iraqi security services)

On page 169, between lines 8 and 9, insert the following:

REPORTS ON IRAQI SECURITY FORCES

SEC. 1122. Not later than 60 days after the date of enactment of this Act, and every 90 days thereafter, the President shall submit an unclassified report to Congress, which may include a classified annex, that includes a description of the following:

(1) The extent to which funding appropriated by this Act will be used to train and equip capable and effectively led Iraqi security services and promote stability and security in Iraq.

(2) The estimated strength of the Iraqi insurgency and the extent to which it is composed of non-Iraqi fighters, and any changes over the previous 90-day period.

(3) A description of all militias operating in Iraq, including their number, size, strength, military effectiveness, leadership, sources of external support, sources of internal support, estimated types and numbers of equipment and armaments in their possession, legal status, and the status of efforts to disarm, demobilize, and reintegrate each militia.

(4) The extent to which recruiting, training, and equipping goals and standards for Iraqi security forces are being met, including the number of Iraqis recruited and trained for the army, air force, navy, and other Ministry of Defense forces, police, and highway patrol of Iraq, and all other Ministry of Interior forces, and the extent to which personal

and unit equipment requirements have been met.

(5) A description of the criteria for assessing the capabilities and readiness of Iraqi security forces.

(6) An evaluation of the operational readiness status of Iraqi military forces and special police, including the type, number, size, unit designation and organizational structure of Iraqi battalions that are—

(A) capable of conducting counterinsurgency operations independently;

(B) capable of conducting counterinsurgency operations with United States or Coalition mentors and enablers; or

(C) not ready to conduct counterinsurgency operations.

(7) The extent to which funding appropriated by this Act will be used to train capable, well-equipped, and effectively led Iraqi police forces, and an evaluation of Iraqi police forces, including—

(A) the number of police recruits that have received classroom instruction and the duration of such instruction;

(B) the number of veteran police officers who have received classroom instruction and the duration of such instruction;

(C) the number of Iraqi police forces who have received field training by international police trainers and the duration of such instruction;

(D) a description of the field training program, including the number, the planned number, and nationality of international field trainers;

(E) the number of police present for duty;

(F) data related to attrition rates; and

(G) a description of the training that Iraqi police have received regarding human rights and the rule of law.

(8) The estimated total number of Iraqi battalions needed for the Iraqi security forces to perform duties now being undertaken by the Coalition Forces, including defending Iraq's borders, defeating the insurgency, and providing law and order.

(9) The extent to which funding appropriated by this Act will be used to train Iraqi security forces in counterinsurgency operations and the estimated total number of Iraqi security force personnel expected to be trained, equipped, and capable of participating in counterinsurgency operations by the end of 2005 and of 2006.

(10) The estimated total number of adequately trained, equipped, and led Iraqi battalions expected to be capable of conducting counterinsurgency operations independently and the estimated total number expected to be capable of conducting counterinsurgency operations with United States or Coalition mentors and enablers by the end of 2005 and of 2006.

(11) An assessment of the effectiveness of the chain of command of the Iraqi military.

(12) The number and nationality of Coalition mentors and advisers working with Iraqi security forces as of the date of the report, plans for decreasing or increasing the number of such mentors and advisers, and a description of their activities.

(13) A list of countries of the North Atlantic Treaty Organisation (''NATO'') participating in the NATO mission for training of Iraqi security forces and the number of troops from each country dedicated to the mission.

(14) A list of countries participating in training Iraqi security forces outside the NATO training mission and the number of troops from each country dedicated to the mission.

(15) For any country, which made an offer to provide forces for training that has not been accepted, an explanation of the reasons why the offer was not accepted.

(16) A list of foreign countries that have withdrawn troops from the Multinational Security Coalition in Iraq during the previous 90 days and the number of troops withdrawn.

(17) A list of foreign countries that have added troops to the Coalition in Iraq during the previous 90 days and the number of troops added.

(18) For offers to provide forces for training that have been accepted by the Iraqi government, a report on the status of such training efforts, including the number of troops involved by country and the number of Iraqi security forces trained.

(19) An assessment of the progress of the National Assembly of Iraq in drafting and ratifying the permanent constitution of Iraq, and the performance of the new Iraqi Government in its protection of the rights of minorities and individual human rights, and its adherence to common democratic practices.

(20) The estimated number of United States military forces who will be needed in Iraq 6, 12, and 18 months from the date of the report.

Mr. DURBIN. I thank the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank Senator DURBIN for bringing up this matter on the supplemental. I welcome the opportunity to join with him and our colleague from Michigan, Senator LEVIN, and others who support the amendment. As we have outlined, this amendment basically requires periodic reports on the progress we are making in training Iraqi security forces.

The Senate is currently debating an appropriations bill that would provide $81 billion, primarily for our ongoing war effort in Iraq. This funding will bring the total U.S. bill for the war in Iraq to $192 billion—and still counting.

All of us support our troops. We obviously want to do all that we can to see that they have proper equipment, vehicles, and everything else they need to protect their lives as they carry out their mission. It is scandalous that the administration has kept sending them into battle in Iraq without proper equipment. No soldier should be sent into battle unprotected. No parents should have to go in desperation to the local Wal-Mart to buy armored plates and mail them to their sons and daughters serving in Iraq.

Our military is performing brilliantly under enormously difficult circumstances. But they don't want—and the American people don't want—an open-ended commitment. After all the blunders that took us into war, we need to be certain that the President has a strategy for success.

The $5.7 billion in this bill for training Iraqi security forces is a key element of a successful strategy to stabilize Iraq and withdraw American military forces.

The administration has spoken frequently about the need for these funds. But there has been no accountability. It is time to put some facts behind our policy, and that is what this amendment does.

The administration has never really given us a straight answer about how many Iraqi security forces are adequately trained and equipped. We're obviously making progress, but it is far from clear how much. The American people deserve an honest assessment that provides the basic facts.

But that is not what we're being given. According to a GAO report in March:

U.S. government agencies do not report reliable data on the extent to which Iraqi security forces are trained and equipped.

It goes on to say:

The Departments of State and Defense no longer report on the extent to which Iraqi security forces are equipped with their required weapons, vehicles, communications, equipment, and body armor.

It is clear from the administration's own statements that they are using the notorious ''fuzzy math'' tactic to avoid an honest appraisal.

On February 4, 2004, Secretary Donald Rumsfeld said:

We have accelerated the training of Iraqi security forces, now more than 200,000 strong.

Then, a year later, on January 19, 2005, Secretary Condoleezza Rice said that:

We think the number right now is somewhere over 120,000.

On February 3, 2005, in response to questions from Senator LEVIN at a Senate Armed Services Hearing, General Richard Myers, chairman of the Joint Chiefs of Staff, conceded that only 40,000 Iraqi security forces are really capable. He said:

48 deployable (battalions) around the country, equals about 40,000, which is the number that can go anywhere and do anything.

Obviously, we need a better accounting of how much progress is being made to train and equip effective and capable Iraqi Security forces.

I am encouraged by reports from our commanders in Iraq that we are making enough progress in fighting the insurgents and training the Iraqi security forces to enable the Pentagon to plan for significant troop reductions by early next year.

On March 27, General Casey, our top commander in Iraq, said, if things go well in Iraq, ''by this time next year . . . we should be able to take some fairly substantial reductions in the size of our forces.''

According to the New York Times, on Monday, senior military officials are saying American troop levels in Iraq could ''drop to around 105,000'' by early in 2006.

These reports are welcome news after 2 years of war in Iraq.

April 9 marked the second anniversary of the fall of Baghdad, and in these last 2 years we have paid a high price for the invasion of Iraq.

America went to war in Iraq because President Bush insisted that Iraq had strong ties to al-Qaida. It did not. We went to war because President Bush insisted that Saddam Hussein was on the verge of acquiring a nuclear capability. He was not. Long after the invasion of Iraq began, our teams were scouring possible sites for weapons of mass destruction. Finally, last January, 21

months after the invasion, the search was called off all together.

As Hans Blix, the former chief U.N. weapons inspector, said in a lecture last month, the United States preferred ''to believe in faith based intelligence.''

Today, American forces continue to serve bravely and with great honor in Iraq. But the war in Iraq has made it more likely—not less likely—that we will face terrorist attacks in American cities, and not just on the streets of Baghdad. The war has clearly made us less safe and less secure. It has made the war against al-Qaida harder to win.

As CIA Director Porter Goss told the Senate Intelligence Committee on February 16, we have created a breeding ground for terrorists in Iraq and a worldwide cause for the continuing recruitment of anti-American extremists.

He said:

The Iraq conflict, while not a cause of extremism, has become a cause for extremists . . . Islamic extremists are exploiting the Iraqi conflict to recruit new anti-U.S. jihadists . . . These jihadists who survive will leave Iraq experienced in and focused on acts of urban terrorism. They represent a potential pool of contacts to build transnational terrorist cells, groups, and networks in Saudi Arabia, Jordan and other countries.

Three and a half years after the 9/11 attacks, al-Qaida is still the gravest threat to our national security, and the war in Iraq has ominously given al-Qaida new incentives, new recruits, and new opportunities to attack us.

According to CIA Director Goss, ''al-Qaida is intent on finding ways to circumvent U.S. security enhancements to strike Americans and the homeland.''

Admiral James Loy, Deputy Secretary of Homeland Security, also warned the Intelligence Committee about the threat from al-Qaida. He said, ''We believe that attacking the homeland remains at the top of al-Qaida's operational priority list . . . We believe that their intent remains strong for attempting another major operation here.''

The danger was also emphasized by Robert Mueller, the FBI Director, who told the Intelligence Committee, ''The threat posed by international terrorism, and in particular from al-Qaida and related groups, continues to be the gravest we face.'' He said, ''al-Qaida continues to adapt and move forward with its desire to attack the United States using any means at its disposal. Their intent to attack us at home remains—and their resolve to destroy America has never faltered.''

In addition to taking the focus off the real war on terror—the war against al-Qaida—the war in Iraq has cost us greatly in human terms.

Since the invasion began, we have lost more than 1500 servicemen and women. More than 11,500 have been wounded. That's the equivalent of a full Army division, and we only have 10 active divisions in the entire army. Despite recent progress, since the Iraqi elections in January we have still lost more than one soldier a day.

We need to train the Iraqis for the stability of Iraq. But we also need to train them because our current level of deployment is not sustainable. Our military has been stretched to the breaking point, with threats in other parts of the world ever-present.

As the Defense Science Board told Secretary Rumsfeld last September, ''Current and projected force structure will not sustain our current and projected global stabilization commitments.''

LTG John Riggs said it clearly: ''I have been in the Army 39 years, and I've never seen the Army as stretched in that 39 years as I have today.'' A full 32 percent of our military has already served two or more tours of duty in Iraq or Afghanistan. That fact makes it harder for us to respond to threats elsewhere in the world.

The war has also undermined the Guard and Reserve. Forty percent of the troops in Iraq are Guard or Reservists, and we are rapidly running out of available soldiers who can be deployed.

The average tour for reservists recalled to active duty is now 320 days, close to a year. In the first Gulf War, it was 156 days; in Bosnia and Kosovo, 200 days. In December, General James Helmley, the head of the Army Reserves warned that the Reserve ''is rapidly degenerating into a 'broken' force'' and ''is in grave danger of being unable to meet other operational requirements.''

The families of our military, Guard and Reserves are also suffering. Troops in Iraq are under an order that prevents them ever from leaving active duty when their term of service is over.

A survey by the Defense Department last May found that reservists, their spouses, their families, and their employers are less supportive now of their remaining in the military than they were a year ago.

The war has clearly undermined the Pentagon's ability to attract new recruits and retain those already serving. In March, the active duty Army fell short of its recruiting goal by a full 32 percent. Every month this year, the Marines have missed their recruiting goal. The last time that happened was July 1995.

The Army Reserves are being hit especially hard. In March, it missed a recruiting goal by almost half, falling short by 46 percent.

To deal with its recruiting problems, the Army National Guard has increased retention bonuses from $5,000 to $15,000 and first-time signing bonuses from $6000 to $10,000. The Pentagon has raised the maximum age for Army National Guard recruits from 34 to 39. Without these changes, according to General Steven Blum, Chief of the Army National Guard, ''The Guard will be broken and not ready the next time it's needed, either here at home or for war.''

We all hope for the best in Iraq. We all want democracy to take root firmly and irrevocably.

Our men and women in uniform, and the American people deserve to know that the President has a strategy for success. They want to know how long it will take to train the Iraqi security forces to ably defend their own country so American men and women will no longer have to die in Iraq. They want to know when we will have achieved our mission, and when our soldiers will be able to come home with dignity and honor.

At a March 1 hearing in the Senate Armed Services Committee, General Abizaid, the leader of the Central Command, gave the clearest indication so far about when our mission might end.

General Abizaid said, ''I believe that in 2005, the most important statement that we should be able to make is that in the majority of the country, Iraqi security forces will take the lead in fighting the counterinsurgency. That is our goal.''

Speaking about the capabilities of the Iraqi security forces, General Abizaid said, ''I think in 2005 they'll take on the majority of the tasks necessary to be done.'' That's this year.

On March 27, General Casey, commanding General of the Multi-National Force in Iraq said, ''By this time next year . . . assuming that the political process continues to go positively . . . and the Iraqi army continues to progress and develop as we think it will, we should be able to take some fairly substantial reductions in the size of our forces.''

Our troops are clearly still needed to deal with the insurgency. Just as clearly, we need an effective training program to enable the Iraqis to be self-reliant.

But there is wide agreement that the presence of American troops fuels the insurgency. If the Iraqis make significant progress this year, it is perfectly logical to expect that more American troops will be able to return home.

Shortly after the elections in Iraq in January, the administration announced that 15,000 American troops that were added to provide security for the elections would return.

Additional reductions in our military presence, as Iraqis are trained to take over those functions, would clearly help take the American face off the occupation and send a clearer signal to the Iraqi people that we have no long-term designs on their country.

In US News and World Report in February, General Abizaid emphasized this basic point. He said ''An overbearing presence, or a larger than acceptable footprint in the region, works against you . . . The first thing you say to yourself is that you have to have the local people help themselves.''

Deputy Secretary Wolfowitz stated in a hearing at the Senate Armed Services Committee on February 3, ''I have talked to some of our commanders in the area. They believe that over the course of the next six months you will see whole areas of Iraq successfully handed over to the Iraqi army and

Iraqi police.'' Today 2 of those 6 months have passed, and all of us hope that we are on track to meet his goal.

Before the election in Iraq in January, the administration repeatedly stated that 14 of the 18 provinces in Iraq are safe. We heard a similar view in a briefing from Ambassador Negroponte earlier this year.

If some areas can soon be turned over to the Iraqis, as Secretary Wolfowitz indicated, it should be done. It would be a powerful signal to the Iraqi people that the United States is not planning a permanent occupation of their country. If entire areas are being turned over to the Iraqis, we should be able to bring more American troops home.

We know the road ahead will be difficult, because the violence is far from ended.

The President's commitment to keeping American troops in Iraq as long as it takes and not a day longer is not enough for our soldiers and their loved ones. They deserve a clearer indication of what lies ahead, and so do the American people.

President Bush should be able to tell us how much progress—how much real progress—we are making in training the Iraqi security forces. Our amendment asks for specific information on that progress, if it's happening.

President Bush should be able to tell us how many American soldiers he expects will still be in Iraq 6 months from now, 12 months from now, 18 months from now.

General Abizaid and other military officials have begun to provide clarification of that very important issue, and I hope the President will as well.

Our amendment contributes significantly to that goal, and I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I rise to support the amendment Senator KENNEDY has addressed, which was introduced by Senator DURBIN. It represents an effort to obtain information that is critically important to the American people in reaching a judgment, critically important to the Congress in reaching a judgment, critically important, I believe, to our military leaders, first and foremost, in reaching a judgment as to how quickly we can remove forces from Iraq.

It is in everybody's interest that we succeed in Iraq. Some of us who were highly critical of the way we went into Iraq—more unilaterally than we should have, without the support of any Muslim nations, making our presence a Western occupation of a Muslim nation, with all of the problems that unleashes, and many of us who have been critical of the way in which the Iraqi army was disbanded unilaterally, without much thought, and the way in which we did not have a plan for a violent aftermath when we went in, the way in which we didn't listen to our military leaders in terms of the need to prepare for the possibility of the violent aftermath. All of us, those of us who were critics and those of us who were supporters, now have a common interest in Iraq and have had, once the decision was made to go into Iraq, and that is that we succeed in Iraq.

Success in Iraq requires that the Iraqis take over their own defense and their own security. This amendment will help give us a roadmap toward understanding how long it will take, what is necessary, what the cost will be for the Iraqis to take over their own security, the key to our exit, first reductions in our American forces, and then to our ultimate departure from Iraq, and the key to it is how quickly we can turn over to Iraq their own security.

This amendment sets forth a number of reporting requirements, which will help us to make a judgment as to how quickly that can be done, which will help the American people to understand there is a strategy here, there are markers along the road we are on which will tell us whether we are achieving that essential security and, more importantly, whether the Iraqis are achieving that essential security for themselves.

Two things are going to be necessary here for success to be achieved. One is to secure the area and the other is a political accommodation between the people in Iraq—people who have different religious beliefs, different ethnic backgrounds, people who are now going to have to put themselves together to form a nation.

In terms of the training of Iraqi troops, we have very different estimates over the months, and it is very difficult for us in Congress and for the American people to make a judgment as to how quickly we are going to be able to reduce our presence in Iraq—a presence which has fueled the insurgency against us, which is used as a propaganda tool against us, because we are characterized as Western occupiers in a Muslim nation. The longer we stay there, the more troops we have there, the more we play into the hands of those who want to destroy us and destroy the hopes of Iraqis for a nation.

I want to give a few examples of the discrepancies in the characterization of the ability of the Iraqis to protect and defend themselves. Back in September of last year, President Bush said the following:

> Nearly 100,000 fully trained—
>
> I emphasize fully trained.
>
> —and equipped Iraqi soldiers, police officers, and other security personnel are working today.

But then George Casey, our commander of the multinational force in Iraq, in January said the following:

> When Prime Minister Allawi took office in June of 2004, he had one deployable battalion. Today, he has 40. When you multiply 40 battalions that are deployable with the number of people in each battalion, it comes out to approximately 30,000 personnel.

So when General Casey spoke in January, months after President Bush told us there were 100,000 fully trained and equipped Iraqi soldiers, there were still but 30,000 personnel in Iraq who were deployable.

This is what General Myers said in February: That there are about 40,000 Iraqis in the police and military battalions, 40,000 that can ''go anywhere in the country and take on almost any threat.''

That is a very different impression than is given by the weekly status reports we get from the administration. This is the State Department's most recent weekly status report as to what they call trained-and-equipped Iraqi forces—152,000 this week.

There are not 152,000 Iraqi forces capable of taking on insurgents. If we are lucky, the number is about one-third of that. But we have to know two numbers, not just one, not just the weekly State Department number as to how many people are trained and equipped, but how many of those people are sufficiently trained and equipped so they can take on the insurgency. That is the critical number—how many are capable militarily of taking on insurgents.

I will give one other example of the discrepancy of the characterization of the capability of Iraqi forces.

When this supplemental in front of us was provided to us in February, this is what the supplemental represented to us: That 89 of the 90 battalions of Iraqi security forces that have been fielded—89 of 90—are ''lightly equipped and armed and have very limited mobility and sustainment capabilities.'' That is about 95 percent plus of the Iraqi security forces today, according to the supplemental request; 95 percent are lightly equipped and armed and have limited mobility and sustainment. How different that is from the most recent weekly report we just received of 152,000 troops.

It is essential, it is critically important, no matter what one's views of the war are—the wisdom of going in, how well run it has been since we went in—no matter how pessimistic or optimistic one is, no matter how critical or positive one is, in terms of the operations and the way they were planned or not planned and the decision to go in as we did, we must have numbers, we must have estimates, which this amendment would require in regular reports, as to what the capabilities are of the Iraqi forces.

We need two numbers. We need that total number, 152,000, but we need the number of Iraqi forces that are capable of taking on the insurgents: How many are deployable? how many have real mobility and sustainment capabilities? How many are well trained and equipped so they can take on the insurgents?

That number is critical to Iraq. It is critical to Americans. Americans have the right to know the information this amendment requires be provided in regular reports.

I have one other comment before I yield the floor. In addition to the security requirements that must be met so

we can say that our involvement in Iraq has been a success, there must be a political accommodation. That political accommodation, in many ways, is more complicated than the military situation. We need people who now distrust each other, people who have attacked each other over the decades, to now come together politically and to work out a new constitution which will protect the rights of minorities in Iraq.

We have a major group in Iraq, the Shi'a, who feel, and properly so, that a small minority of Sunni Baathists, particularly in the leadership of the Baathist political movement, attacked the Shi'as with gas and with other means. These are Iraqis who were destroyed by Iraqis, by Saddam Hussein and the henchmen who were around Saddam Hussein. So the Shi'a community needs to accommodate themselves to a significant protection for a Sunni minority, and that Sunni minority must get used to the fact, the reality, the Shi'as are the majority of Iraqis, and they have elected a majority of members who are going to be present in the Iraqi Assembly. Of course, there is the yearning of the Kurds for significant autonomy. All that needs to be put together.

It is a very complicated equation for that to happen. As we hopefully achieve some success on the security side, we must keep a very wary eye open as to what is happening or not happening on the political side of the challenge in Iraq.

The constitution will be written by a commission which will be selected by an assembly which is now in place. That assembly will have its Prime Minister within the next few days and will then be able to select a constitutional commission which will write a constitution. That commission needs to reflect the Iraqi people, not the makeup of the assembly which has much too small a percentage of Sunnis, given the fact they did not vote. But the Shi'a majority needs to be wise enough, in selecting the commission that will write the constitution, to have a broadly representative commission that will write a constitution that is protective of the minorities in Iraq, that will guarantee majority rights, of course, but that in any decent nation will protect the minority as well.

That is the challenge they face. They are supposed to meet that challenge by August. They will not do that, obviously. They have a 6-month extension beyond that where they must write a constitution. Getting that constitution written is a major challenge, and anything we can do to facilitate that, it seems to me, would be very wise, indeed.

We have two challenges, one of which is addressed in the amendment before us relative to Iraqi security and the progress they are hopefully making, to give us the information that is important for a judgment to which the American people, the Congress, and our uniformed military are entitled from this administration. I hope this has broad support and the Senate adopts the Durbin amendment.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

AMENDMENT NO. 387

Mr. ALLEN. Mr. President, I rise today to speak in support of an amendment that my good friend from Maryland, Senator MIKULSKI, and I and a number of other Senators have offered and which does have bipartisan support. It has to do with the H–2B visa program.

Small businesses all over our Nation count on the H–2B visa program to keep their businesses operating. Many use this program year after year because it is the only way they can legally hire temporary or seasonal positions when no American workers are available. These companies hire all the American workers they can find, and they do look for American workers. But if they cannot find them, they need to get additional seasonal help, they need to find workers to meet the demands of their businesses and, indeed, to stay in business. These businesses are in construction, seafood, yard services, tourism and other season enterprises.

Congress has capped the H–2B visa program at 66,000 visas per year. That has not been adjusted since this visa category was initially capped in 1990. So since 1990 the visa cap has been 66,000. However, during those years, and here we are 15 years later, there are a variety of factors that have hampered U.S. employers from having the ability to find and hire more willing American workers for short-term positions. The shortages occur for a variety of reasons. It is actually getting much worse because Americans are unwilling to engage in low-skilled, semi-skilled short-term employment. In most instances, Americans are unwilling to relocate to a new location for several months out of a year, a move that many of these short-term jobs require. That is logical. People aren't going to want to move for 3 or 4 months and then move back to another place.

According to the Department of Homeland Security, the H–2B cap of 66,000 was reached a few months into the fiscal year. This is the second year in a row the cap has been reached this early. You may wonder why we are reaching the cap at such an early stage. What is the problem? Under current law employers cannot file an H–2B application until 120 days before they need the employee. Therefore, the H–2B program puts businesses whose peaks are in the summer and in the autumn at a disadvantage because the Citizenship and Immigration Services cannot process their applications until at least January or February, since these jobs generally start around Memorial Day. Therefore, if the cap is reached in January and February, as it was in the last several years, these employers who rely on seasonal workers are clearly put at a disadvantage.

I have heard from these employers. One of our most important jobs that I have as a Senator is to listen to people out there in the real world, to see what are the effects of certain laws and see if there are ways to allow those in the free enterprise system, particularly small businesses, to continue to operate. I do listen to my constituents. My constituents have clearly voiced their concerns about the H–2B program and have asked for help. I think it is important that we respond.

I will give some examples of what is going on. There is a company called WEMOW. WEMOW is a landscaping design and lawn maintenance company in Blacksburg, VA. This company relies heavily on the H–2B program, and sadly they have had to cut back on services they can provide because of the lack of a workforce to meet that demand. Christopher Via, who is the president of WEMOW, wrote me. I will quote from his letter. He said:

> While my company spends considerable time and money to recruit U.S. workers, the positions we need to fill are hot, labor intensive, physically exhausting low- and semi-skilled jobs that many Americans do not want to fill. Therefore, our ability to meet seasonal demand and stay in business relies on finding temporary workers. H–2B workers have proven critical in filling this need.

Of course, they are late in the season, so therefore they do not get the workers they could to meet those needs.

Another letter I received is from a company in Yorktown. Yorktown is a very famous tourism area. Stephen C. Barrs, the president of C.A. Barrs Contractor, Inc., wrote:

> While our company recruits U.S. workers, our company and our industry as a whole have been unable to find American workers. We have presented evidence to the Department of Labor that there are no U.S. workers available to fill our vacant positions. Our company employs approximately 100 people, and we specialize in road construction. The H–2B program provides foreign employees who have proven tremendous employees. We have relied on the H–2B program for 6 years and find this program invaluable. Once our season ends, our H–2B workers return home. This is more a small business issue than an immigration issue. We fear this program is in jeopardy, and if it is cut in any way, our small businesses will sustain a very damaging loss.

These are two of hundreds of letters I have received from small businesses all across Virginia, asking for our immediate help. Our amendment does that. It provides an immediate legislative remedy that helps these businesses get part-time seasonal workers.

Before I get into the details of what this amendment does, I want to clearly outline what this amendment does not do. I first want to stress that this amendment in no way changes the existing requirements for applying for an H–2B visa. U.S. employers must demonstrate to State and Federal departments of labor that there are no available U.S. workers to fill vacant seasonal positions. Subsequently, they

must obtain an approved labor certification from the U.S. Department of Labor, file a visa petition application with the Citizenship and Immigration Service for H–2B workers, and obtain approved H–2B visas for workers in their home countries.

With that understanding, I would like to outline what this amendment does effectuate. Specifically, our amendment would exempt temporary seasonal workers who have participated in the H–2B visa program, and have completely followed the law during the past 3 fiscal years from counting toward the statutory cap of 66,000.

Second, this amendment has a number of new antifraud provisions. One such provision requires employers to pay an additional fee of $150 on each H–2B petition, and those fees are placed into the fraud and prevention detection account of the U.S. Treasury.

Third, this amendment creates new sanctions for those who misrepresent facts on a petition of an H–2B visa. This provision is designed to further strengthen the Department of Homeland Security's enforcement power to sanction those who violate our Nation's immigration laws. If an employer violates this section, the Department of Homeland Security will have the power to fine the individual employer and/or not approve, of course, their H–2B petitions.

Fourth, moreover, the amendment divides the cap more equitably, giving half of the visas to fall and winter businesses and half to spring and summer businesses. So you do not get into this whole gaming situation of when do the applications get in, and end up with a frustrating disruption at the end of the year.

Finally, this amendment adds some simple, commonsense reporting requirements that will allow Congress to get more information on the H–2B program users as we in Congress move toward a more comprehensive, long-term solution to this problem.

Our amendment provides the needed temporary addressing and the fix that is needed to a problem that, if left unresolved, will ultimately harm our economy. Jobs will be lost, whether they are in landscaping, whether they are in seafood, whether they are in contracting, whether they are in tourism. These are all small businesses. They are good, law-abiding citizens. They are trying to use and will use this program lawfully, but we need to bring some common sense into this program.

We need to act as soon as possible. Many of these businesses are family businesses, and they need to stay in operation. They provide services which their customers and the people in their communities desire.

I strongly and respectfully urge my colleagues to vote in favor of this amendment. It is not solely an immigration issue. As my friend and constituent from Yorktown said, this is a small business issue as well.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. SALAZAR. Mr. President, I ask unanimous consent that the pending amendments be set aside.

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

AMENDMENT NO. 351

Mr. SALAZAR. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. SALAZAR] proposes an amendment numbered 351.

Mr. SALAZAR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To express the sense of the Senate that the earned income tax credit provides critical support to many military and civilian families)

At the appropriate place, insert the following:

SEC. __. SENSE OF THE SENATE ON THE EARNED INCOME TAX CREDIT.

(a) FINDINGS.—The Senate makes the following findings:

(1) In an effort to provide support to military families, this Act includes an important increase in the maximum payable benefit under Servicemembers' Group Life Insurance from $150,000 to $400,000.

(2) In an effort to provide support to military families, this Act includes an important increase in the death gratuity from $12,000 to $100,000.

(3) In an effort to provide support to military families, this Act includes an important increase in the maximum Reserve Affiliation bonus to $10,000.

(4) The Federal earned income tax credit (EITC) under section 32 of the Internal Revenue Code of 1986 provides critical tax relief and support to military as well as civilian families. In 2003, approximately 21,000,000 families benefitted from the EITC.

(5) Nearly 160,000 active duty members of the armed forces, 11 percent of all active duty members, currently are eligible for the EITC, based on analyses of data from the Department of Defense and the Government Accountability Office.

(6) Congress acted in 2001 and 2004 to expand EITC eligibility to more military personnel, recognizing that military families and their finances are intensely affected by war.

(7) With over 300,000 National Guard and reservists called to active duty since September 11, 2001, the need for tax assistance is greater than ever.

(8) Census data shows that the EITC lifted 4,900,000 people out of poverty in 2002, including 2,700,000 children. The EITC lifts more children out of poverty than any other single program or category of programs.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) Congress should take steps necessary to support our troops and their families;

(2) it is not in the interests of our troops and their families to reduce the earned income tax credit under section 32 of the Internal Revenue Code of 1986; and

(3) the conference committee for H. Con. Res. 96, the concurrent resolution on the budget for fiscal year 2006, should not assume any reduction in the earned income tax credit in the budget process this year, as provided in such resolution as passed by the House of Representatives.

Mr. SALAZAR. Mr. President, before commenting on this amendment, I wish to take a minute to thank the chairman and ranking member, Senators COCHRAN and BYRD, for all their hard work on this important bill. I am especially appreciative of the help and support they have offered this Senator on two amendments.

They and their staffs have been helpful as we try to ensure that the brave Lebanese people who stood up to their Syrian occupiers know we are here to support them. Earlier today we made a down payment on a commitment to help ensure they have the free and fair elections and strong and vibrant democracy they have earned. I want especially to thank the staffs of Senators MCCONNELL and LEAHY for the help on the Lebanon amendment.

I am also hopeful that we will be able to fix something that I have considered an injustice since I came to the Senate earlier this year. The assistance we provide to military families in the event of a loss of their family member is referred to as the ''death gratuity.'' That is a misnomer, and I am hopeful that we will be able to correct that by renaming this assistance as something more fitting, namely, ''Fallen Hero Compensation.''

Regarding the amendment I have just sent to the desk, it is quite simple. It clearly states our support for the earned income tax credit, especially because this program benefits working families and a large amount of our active duty military personnel.

Given that we are considering a bill that provides critical support to our troops and their families and that later this week many millions of Americans will be filing their taxes, I believe this amendment needed to be heard on this bill this week.

The EITC was first enacted in 1975 to aid the working poor. According to an analysis released just this week by a highly respected, non-partisan institute in Denver, the Bell Policy Center, in the past year, more than 150,000 active military personnel nationwide qualified for the EITC. In my State of Colorado alone, over 3,000 members of the military qualified for the EITC.

The EITC has long enjoyed bipartisan support because the credit is extended only to families that have work income. Most recently, under the leadership of Senator MARK PRYOR, this body overwhelmingly approved the expansion of the EITC to more military families.

That is as it should be . . . given all that these families give for our country, it is the least the country can do for them.

Now, however, it appears that this effective program that has lifted over 2.7 million children above the poverty level is coming under attack.

Recently the House of Representatives indicated that it is considering cutting the EITC in its budget reconciliation. Such cuts, if enacted by

the full Congress, could lead to higher taxes for many of our military families.

This is not fair and this is not right.

At a time when many of our military personnel are overseas and when our national guard reserves have been called up at historic rates, we should be providing for our men and women in uniform. We should not be taking away from them and placing them at a greater financial disadvantage.

I hope the Senate will be heard loudly and clearly that this is not the right thing to do. Our troops and their families deserve no less.

I urge my Senate colleagues to reject any cuts to the EITC.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I thank the Senator from Colorado. In fact, I rise to discuss an individual who the Senator from Colorado and I met when we were part of a bipartisan delegation led by the Democratic leader, HARRY REID, a couple of weeks ago. On that trip, we visited a number of countries—Kuwait, Iraq, Israel, France, Georgia, Ukraine, and the Palestinian territory. We saw a number of emerging democracies. It made me think of what our own country might have been like more than 200 years ago. We visited with two men who were named Prime Minister and Speaker of the Iraqi Parliament a week later. In Georgia, we saw the young government. Many of them were educated here in the United States as students. When we went to Ukraine, we met Mr. Yuschenko and some of the students who had been part of this revolution. What we saw was very impressive, as were those people we were introduced to.

But from my way of thinking, there was no one more impressive than the Finance Minister of the Palestinian Authority, Salam Fayyad, who instituted a number of reforms to fight corruption and bring transparency to the finances of that Authority.

This remarkable individual was born Palestinian, and his family fled the West Bank for Jordan in 1968. He studied at the American University in Beirut. He later received a Ph.D. in economics from the University of Texas at Austin. He worked for the Federal Reserve in St. Louis and the International Monetary Fund in Washington, DC. He became the IMF representative to the Palestinian Authority and moved to Jerusalem in 1995. Then, in 2002, he was named Finance Minister of the Palestinian Authority.

What is remarkable is that all of us either know or suspect that when Arafat was in power, there was gross corruption with the moneys that came into Palestine. Mr. Fayyad has done the following things: He centralized control of the Palestinian Authority's finances. Previously, agencies had collected the money and kept it. That meant, for example, that education was poorly funded since it collected little money. Mr. Fayyad forced all the incoming funds to be put into the general treasury and disbursed by the Finance Minister.

The next thing he did was direct deposits for Palestinian security forces. Previously, money was given in plastic bags to commanders for them to distribute. Obviously, this led to what might generously be called a lot of mismanagement of those funds. Now soldiers are much happier because they get their pay on time, and the government is sure the money is going where it should. The soldiers and the government both know the money is not going to somebody who didn't earn it.

Public budgeting: He issued the first publicly detailed budget for the Authority, which totaled about $1.28 billion. The Ministry now issues public monthly reports of the government's financial status.

Eliminating graft: Due to his efforts, revenue of the Palestinian Authority is up from $45 million to $75 million, largely because money that was skimmed off the top in the past is going into the treasury where it belongs. I am not just saying this today because I want to give a pat on the back to Mr. Fayyad, who, in taking these steps, has shown a great deal of courage. I am sure there are a good number of people in the Palestinian territory who were skimming money off the top before who are not going to be happy with him now. I am bringing this up today because it has to do with a vote we are about to take here in the Senate.

The bill before us, the supplemental appropriations bill, provides $200 million of the President's request for aid to the Palestinian territories. There is another $150 million in the normal budgeting process. Unlike the House version of this supplemental appropriations bill, our version—the Senate version as it is coming to us—preserves the President's waiver authority that would allow him to designate a portion of those funds as he sees fit by the use of the Palestinian Authority. I believe that policy—the Senate policy—is the right policy. In other words, our policy would permit our President, President Bush, to decide that Mr. Fayyad and the government of the Palestinian Authority could properly spend this money. Some people are saying they stole money over there before. Yes they did. Yasser Arafat is dead and buried. It is time to make a new start.

The Finance Minister has made great strides to ensure that funds are publicly accountable. We will be able to keep track of where our taxpayer money goes. The Palestinian Authority needs some money. There is no poorer part of the world than the Gaza Strip. Someone has to provide security in the Gaza Strip. We look to the Palestinian Authority to do that if the Israelis pull out. Someone has to provide a social services safety net for these poor people so they are not tempted to join with the terrorists. We look to the Palestinian Authority to do that.

Why in the world would we keep our President from making the decision that would give the money to the Palestinian Authority, which is the group we are counting on to provide security and to provide the social safety net?

Nongovernment agriculture organizations can provide valuable help in support of what the Palestinian Authority is doing. If we are going to do business with the Palestinian Authority, and are going to expect them to be accountable for keeping things safe and providing a basic level of social services so people are able to eat, we should deal directly with them. At the very least we should give the President of the United States the authority, as the Senate bill does, to deal directly with the Palestinian Authority.

I am happy with what our Committee on Appropriations has done. I disagree with what the House of Representatives has done, and I suppose the matter will go to conference. I hope in the conference the Senators will insist on the Senate provision, and I hope our House Members will see the wisdom of giving our President the discretion to give the money to the Government that we are going to hold accountable.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ALEXANDER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mrs. CLINTON. Mr. President, my colleague from South Carolina, Senator LINDSEY GRAHAM, and I come to the floor this afternoon to speak about the necessity of expanding TRICARE for National Guard members and reservists. I especially thank Senator GRAHAM for his hard work and advocacy on behalf of this legislation.

Almost 2 years ago exactly, in the spring of 2003, Senator GRAHAM and I joined at the Reserve Officers Association building to announce the first version of this legislation. In the intervening years, we have made a great deal of progress in expanding access to TRICARE, the military health program. But we agree there is still a long way to go.

We recently discovered our proposed legislation to ensure that National Guard and Reserve members have access to the military health program known as TRICARE does not have a cost this year, so it was not appropriate for us to attempt to attach this to the supplemental appropriations bill that is currently on the floor. But we are extremely hopeful we will be able to include legislation in this year's Department of Defense authorization bill.

Because Senator GRAHAM and I serve on the Armed Services Committee, we have heard firsthand, as have many of my colleagues, about the extraordinary

strain being placed on our Guard and Reserve Forces. We are well aware that a major part of our military success in Iraq and Afghanistan has been because of the role played by reservists and Guard members who heeded the call to serve their country—for some, not once, not twice, but three times in Iraq and/or Afghanistan.

Since September 11, our reservists and National Guard members have been called upon with increasing frequency. From homeland security missions where they were absolutely essential in New York after 9/11, National Guard men and women patrolled and guarded our subways, the Amtrak lines in Penn Station, other places of importance. We have seen in so many other instances where they were called to duty here in our own homeland. We also know they have paid the ultimate sacrifice, losing their lives in serving the missions they were called to fulfill in Iraq and Afghanistan or being grievously wounded and returning home, having given their all to our country.

In New York we have over 30,000 members of the Guard and Reserves, and over 4,000 are currently deployed in support of Operation Iraqi Freedom. When I have visited with our activated reservists and National Guard in New York, I have been greatly impressed by their willingness and even eagerness, in some cases, to serve. But I have also heard about the strains they face, that their families have borne, that their businesses have endured. It is abundantly clear we are having some difficulty in recruitment and retention of the Guard and Reserve because of the extraordinary stresses being placed on these very dedicated individuals. Now more than ever, we need to address the needs of our Guard and Reserve members. The general of the Army Reserves, General Helmly, has expressed concern about whether we are going to be able to meet our needs for the Reserve component.

The legislation Senator GRAHAM and I have been working on for 2 years is bipartisan. It is not a party issue. It is a core American issue. Our TRICARE legislation allows Guard and Reserve members the option of enrolling full time in TRICARE, getting the family health insurance coverage that is offered to active-duty military personnel. The change would offer health care stability to families who lose coverage under their employers' plans when a family member is called to active duty. In fact, one of the most shocking statistics was that about 25 percent of our active-duty Guard and Reserve had some medical problems, but the numbers were particularly high for the Guard and Reserve because so many of these—primarily but not exclusively—young people either had jobs which didn't offer health insurance or worked for themselves and could not afford health insurance. So when they were activated and reported, they were not medically ready to be deployed. This is not simply the right thing to do; this is part of our military readiness necessity.

The legislation addresses these critical issues. I am very grateful for Senator GRAHAM's leadership and the support of so many in this body. He and I will be working with Chairman WARNER and Ranking Member LEVIN and the rest of the Armed Services Committee to get our TRICARE legislation authorized in this year's Department of Defense authorization bill.

Finally, I know there are questions of cost that obviously have to be addressed. I don't think you can put a price on the military service these men and women have given our country. When I was in Iraq a couple of weeks ago, I was struck by how many men I saw with white hair. I think I was surprised there were so many people in their fifties, late fifties, who had been called back to active duty, members of the Individual Readiness Reserve. The men I spoke with had flown combat missions in Vietnam. There they were again, having left their families, left their employment, their homes, and doing their duty in Baghdad or Fallujah or Kirkuk and so many other places of danger.

We have an all-volunteer military. That all-volunteer military has to be given not only the respect it so deserves but the support and the resources it has earned.

I am hopeful we will have unanimous support in the Armed Services Committee to add this legislation, that we will have support from the administration and, in an overwhelming vote in both Houses of Congress, not give lipservice and rhetorical pats on the back to our Guard and Reserve members but show them in a tangible way that we appreciate and respect their service and we understand the strains they are living under and often their families are suffering under. One small way to show our appreciation as a nation is to make sure once and for all they and their families have access to health care.

It is a great pleasure to be working with Senator GRAHAM, and I look forward to successfully ensuring that this legislation is once and for all enacted, first in the Armed Services Committee and then on the floor of the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, I will take up where my colleague left off. Before she leaves the floor, I acknowledge what a pleasure it has been to work with her and other members of the Democratic Party and the Republican Party to do something for our Guard and Reserve Forces. She has outlined very well what we are trying to do. It shows what can happen when the body will come together on an issue that should never divide us. Whether you are Republican or Democrat or independent, this war affects us all. No one asked the young men and women fighting the war their party identification or affiliation or their political background when they went off to serve our Nation.

The least we can do as a body is stand behind them and their families to provide a benefit they need.

We had a hearing yesterday, to build upon what Senator CLINTON said. We had the chief of the Army, Air Force, Marine Corps, Reserve components, and the Naval Reserve, and we talked about the stress on the force in terms of the Reserve community. We have 175,000 people today who have experienced duty in this war from the Guard and Reserve. Forty percent of the people in Iraq and Afghanistan are guardsmen and reservists. We could not fight without them.

This is the biggest utilization of the Guard and Reserve since World War II. The skill set they bring to the fight is indispensable. There are civil affairs people helping Afghan and Iraqi officials set up a democracy. We have medical personnel and many others who are indispensable. The military police are predominantly guardsmen and reservists, and they are indispensable in Iraq and Afghanistan. They have done a terrific job.

The reason we are involved in this legislation and we have so much bipartisan support for what we are trying to do is the Guard and Reserve is the only group of part-time Federal employees—and as a guardsman or reservist, you work for the Federal Government. You also work for the State government, but you have a dual status. Reservists are part of the Federal military, the DOD. They are the only group in the whole Federal Government that is not eligible for some form of health care from the Federal Government.

A temporary employee in your office or my office, somebody working in a temporary capacity, is able to sign up for Federal health care benefits that we enjoy. They have to pay a premium. A part-time worker is able to sign up for Federal health care benefits. The only group that works part time and doesn't get any benefits is the Guard and Reserve. The one thing we found from the hearing is that is a mistake. At least 10 percent of the people being called to active duty from the Guard and Reserve are unable to be deployed because of health care problems. About 30 percent of the people in the Guard and Reserve have no private health care insurance. So from a ratings point of view, about 10 percent of the force is taken out of the fight without a shot being fired. That makes no readiness sense. The health care network for the Guard and Reserve today is not doing the job in terms of making the force fit and ready to serve.

When a person is deployed from the Guard and Reserve, they leave behind a family more times than not. Half of the people going into the fight from the Guard and Reserve suffer a pay reduction, having no continuity of health care or predictability of what the benefits will be in a continuous fashion.

How long you will be gone and when you are coming home matters in terms of recruiting and retention. Sixty-eight percent of the Army Reserve's goal is being met in recruiting. The Guard and Active Forces are suffering in recruiting because this war has taken a toll. The more attractive the benefit package is, the more we can appreciate the service, the more likely we are to get the good people and recruit patriotic Americans.

What this legislation is designed to do is fill in that gap and solve the problem that faces the Guard and Reserve families, and that is lack of health care. Every Reserve component chief says that when they talk to the troops, the one thing that means the most to them, on top of every other request, is continuity of health care. So we are proposing a benefit for the Guard and Reserve that they will have to pay for, but we will allow, for the first time, Guard and Reserve members to sign up for TRICARE, the military health care system, like their Active-Duty counterparts have, with one major difference: they will have to pay a premium, unless they are called to active duty, similar to what we pay as Federal employees.

I believe that is a fair compromise. It will allow uninsured guardsmen and reservists to have health care at an affordable price. It will allow people who have uneven health care in the private sector to get constant health care. We will have a system where people, when they are called to active duty, will have the same set of doctors and hospitals that service the family as when they are in the Guard and Reserve status. We think it desperately will help recruiting and retention and readiness, and it will make people ready for the fight.

We have worked on the costs. We are looking at cutting the cost of the program in half by requiring a slightly higher premium from the force and offering TRICARE standard versus TRICARE prime. I believe it fiscally makes sense but still achieves the goal of the original legislation of providing continuity of health care.

The reason we are not offering the amendment on the supplemental is that because of the cost saving we have achieved in redesigning the program, there is no cost to be incurred in 2005. We are working in a bipartisan manner with the chairman of the Armed Services Committee to go ahead and offer a full-time military health care benefit to guardsmen and reservists that they can sign up for, to give them continuity of care at a fair premium. It is a good deal for all concerned. The reason we are doing this is obvious: We are utilizing the Guard and Reserve in a historic fashion. If we don't change the benefit structure, we are going to drive the men and women away from wanting to serve. After a while, it gets to be too onerous. I hope we will be able to produce a product in committee in the authorization bill that will allow this program to be offered to the entire force.

Here is what we did last year. I will end on this note. The body reached a compromise last year. Last year, we came up with a program that for every person in the Guard and Reserve who was mobilized for 90 days or more, from September 11, 2001, forward to today, for every 90 days they served on active duty, they would get a year of TRICARE for themselves and their families. That program goes into effect April 26 of this year, a few days from now. I have the brochure called TRICARE Reserve Select. About a third of the force would be eligible. It will cover the Selective Reserve, drilling reservists. That is one change we made.

I am still in the Reserves, but I am in an inactive status. I do my duty over at Bolling Air Force Base. I am not subject to deployment, so I will not be included. The bill we are designing covers people subject to being deployed and being sent to the site. The compromise of last year will allow a year of TRICARE for every 90 days you are being called to active duty.

There are thousands of reservists who will be eligible for this program, and this brochure called TRICARE Reserve Select will be available to your unit, and you need to inquire as to whether you and your family would be eligible to join TRICARE because of your 90-day-plus deployment. The goal this year is to build upon what we did last year by offering the program to the entire drilling force.

The other two-thirds of the Select Reserves who are subject to being deployed, who drill and prepare for combat-related duties so that when they get called, if they do, they will be ready to go to the fight, it will be a benefit for their families that I think most Americans would be glad to provide.

So we have a program in place for those who have been called to active duty for 90 days or more since September 11, 2001. It goes into effect in a week. It will make you and your family eligible for TRICARE a year for every 90 days you serve. So if you serve a year in Iraq, you get 4 years. The goal this year is expanded to total drilling Selected Reserve force. We cut the program in half by increasing the benefit payment required of the Guard and Reserve member and reshaping the benefit package. I think it is more affordable than ever, but the cost of having 10 percent of the force unable to go to the fight is financially and militarily very large. The cost of lack of continuity of health care for Guard and Reserve families is emotionally devastating.

With about two-tenths of 1 percent of the military budget, we can fix this problem and reward Americans who are doing a great job for their country. The likelihood of the Guard and Reserve being involved in a deep and serious way in the war on terror is probably unlimited.

The last fact I will leave with you is this: We talked to the Reserve commander yesterday about the utilization of the Air Reserves. Fifty percent of the people flying airplanes in terms of transport into the theater of operation and servicing the theater of operation with a C–130 are Reserve or Guard crews. I have been to Iraq 3 times now, and I have flown about 16 or 17 flights on a C–130 from Kuwait into Iraq and Afghanistan. Every crew except one has been a Reserve or Guard crew.

There is a rule in the military that a Guard or Reserve member cannot be deployed involuntarily for more than 24 months. That rule has served the force well because it takes stress off the force, it keeps people gainfully employed because if you are gone all the time, it is hard to keep a civilian job. So we put a cap of 24 months of involuntary service into the theater of operations, into the war zone.

What astonished me was that two-thirds of the pilots and the aircrews in the Guard and Reserve have already reached that mark. Two-thirds of those who serve in the Guard and Reserve have already met their 2-year involuntary commitment.

One fact that keeps this war afloat is that they are volunteering to go back. Legally we cannot make them go back, but they are volunteering to keep flying. And God bless them because two-thirds of 50 percent statutorily do not have to go to this fight. They choose to go to this fight. This benefit package is a recognition of that commitment.

I am very optimistic—to all those Guard and Reserve families who may be listening today—that help is on the way, that this body is going to rise to the occasion, and we are going to improve your health care benefits because you earned it.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

AMENDMENT NO. 430

Mr. BYRD. Mr. President, in every year since 1951, Congress has included a provision in the General Government Appropriations Act which states the following:

> No part of any appropriation contained in this or in any other act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by Congress.

I am quoting from section 624 of Public Law 108–447.

This is the law of the land, and yet despite the law, the Congress and the American people continue to hear about propaganda efforts by executive branch agencies. On more than one occasion, this administration has provided tax dollars to well-known conservative talk show hosts to promote its agenda. One was paid a hefty fee to promote the No Child Left Behind Act. Another talk show host was paid to promote the administration's welfare and family policies.

If those examples are not bad enough, in an effort to blur the line between

independent media and administration propaganda, some agencies have produced prepackaged news stories designed to be indistinguishable from news stories produced by free market news outlets.

According to the Government Accountability Office, the GAO, which is an arm of the Congress, in an opinion dated February 17, 2005, the administration has violated the prohibition on publicity and propaganda. In a memorandum sent to executive branch agencies, the GAO stated:

> During the past year, we found that several prepackaged news stories produced and distributed by certain Government agencies violated this provision.

So very simply, according to the GAO, the administration broke the law. The GAO specifically cited the Office of National Drug Control Policy and the Department of Health and Human Services for violating the antipropaganda law. But these are not the only agencies pretending to be a credible news outlet.

On March 13, 2005, the New York Times wrote about the administration's approach in an article entitled ''Under Bush a New Age of Prepackaged TV News.''

I ask unanimous consent that the entire article be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. BYRD. The Times article spotlighted three new segments that each looked the same as any other 90-second segment on the local news. But these are not new. The Federal Government produced all three of these. The Times told of a news segment produced by the State Department featuring a jubilant Iraqi American telling a news crew in Kansas City: ''Thank you, Bush. Thank you, USA.''

The Department of Homeland Security apparently produced a so-called news report on the creation of the Transportation Security Administration. The reporter called the establishment of TSA ''one of the most remarkable campaigns in aviation history.'' But what the American people, the viewers, did not know was that the so-called reporter was actually a public relations professional working under a false name for the Transportation Security Administration. How about that?

A third segment broadcast in January was based on a news report produced by the Department of Agriculture. The Agriculture Department apparently employs two full-time people to act—listen now—to act as reporters. They travel the country and create their own so-called news, distributing their work via satellite and mail, always pushing the White House line.

What are things coming to?

In the January report, these U.S. Department of Agriculture employees, claiming to be independent journalists, called President Bush ''the best envoy in the world.''

I am not here to argue whether George W. Bush is America's best envoy to the world, but I would rather leave that discussion to independent analysts, not to administration employees or on-the-payroll journalists pushing the White House line.

Yes, the administration should explain its ideas and positions to the American people. No one argues that fact. Educating the public about issues affecting their lives is an essential role of the Government. But the administration should not engage in a blatant manipulation of the news media. Leave the work of manipulation to the Rush Limbaughs of the world. Keep the job of Government focused on the people. Manufacturing propaganda is a blatant misuse of taxpayer dollars, and it is your money, your money, Mr. and Mrs. Taxpayer.

The administration has disputed GAO's views. The administration takes the view that it is OK to mask the source as long as the ads are ''purely informational.''

The White House Office of Management and Budget, with the support of the Justice Department, went so far as to issue a memorandum to agency heads dated March 11, 2005, specifically contradicting the conclusions of the Government Accountability Office. The Justice Department concluded that the Government Accountability Office's:

> . . . conclusion fails to recognize the distinction between covert propaganda and purely informational Video News Reports, which do not constitute propaganda within the common meaning of the term and therefore are not subject to the appropriations restriction.

If paying national columnists and talk show hosts, faking news segments, hiring actors to pretend to be reporters ''do not constitute propaganda,'' what does? What does constitute propaganda? It is time for the administration to back off.

We, the American people, trust the media to provide us with independent sources of information, not biased news stories produced by the administration at the taxpayers' expense. It is time for the White House to be upfront with the American people: no propaganda, no manipulation of the press. The administration should tell the people its position on issues, yes, but should do so honorably and without such deliberate manipulation of the free press. Propaganda efforts such as these are not the stuff for a Republic such as ours. The American people must be able to rely on the independence of the news media. The constitutionally guaranteed freedom of the press is not for sale. The country must know that reporters—real reporters—are presenting facts honestly, presenting facts fairly, presenting facts without bias. Democracy should not be built on deception.

Just yesterday, the Federal Communications Commission, on a unanimous vote—on a unanimous vote of 4 to 0—approved a public notice that directs—that directs, hear me—that directs television broadcasters to disclose to viewers the origin of video news releases produced by the Government or corporations when the material runs on the public airwaves. The Commission acknowledged the critical role that broadcast licensees and cable operators play in providing information to the audiences they serve. This information is an important component of a well-functioning democracy. Along with this role comes a responsibility, the responsibility that licensees and operators make the sponsorship announcements required by the foregoing rule and obtain the information from all pertinent individuals necessary for them to do so. The public notice goes on to stress that the Commission may impose sanctions, including fines, including imprisonment, for failure to comply with the ruling. You better watch out. So the FCC, by a unanimous vote, I say, made clear, crystal clear, as clear as the noonday Sun in a cloudless sky, what their rules are. They made clear to the broadcasters what their rules are.

Now Congress should make clear what the rules are for Federal agencies. Just yesterday, the Federal Communications Commission, on a unanimous vote, 4 to 0, approved this public notice, I am saying it again, that directs television broadcasters to disclose to viewers the origin of video news releases produced by the Government or corporations—I will say this a third time—when the material runs on the public airwaves.

So this is a warning. We, in the Congress, ought to do our best in support of the ruling and to enforce it.

Let me say now that my amendment prevents any agency from using taxpayer dollars to produce or distribute prepackaged news stories intended to be viewed, intended to be heard, intended to be read, which do not clearly identify the so-called news was created by a Federal agency or funded with taxpayer dollars. That is plain common sense.

I urge Senators to back the law that we, Congress, have passed each year since 1951:

> No part of any appropriation contained in this or any other Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by Congress.

Back it up. My amendment simply makes it clear, I say again, that Congress does mean what Congress says. I urge adoption of the amendment. I will yield the floor, but I want to send my amendment to the desk.

EXHIBIT 1

[From the New York Times, Mar. 13, 2005]

UNDER BUSH, A NEW AGE OF PREPACKAGED TV NEWS

(By David Barstow and Robin Stein)

It is the kind of TV news coverage every president covets.

''Thank you, Bush. Thank you, U.S.A.,'' a jubilant Iraqi-American told a camera crew

in Kansas City for a segment about reaction to the fall of Baghdad. A second report told of ''another success'' in the Bush administration's ''drive to strengthen aviation security''; the reporter called it ''one of the most remarkable campaigns in aviation history.'' A third segment, broadcast in January, described the administration's determination to open markets for American farmers.

To a viewer, each report looked like any other 90-second segment on the local news. In fact, the federal government produced all three. The report from Kansas City was made by the State Department. The ''reporter'' covering airport safety was actually a public relations professional working under a false name for the Transportation Security Administration. The farming segment was done by the Agriculture Department's office of communications.

Under the Bush administration, the federal government has aggressively used a well-established tool of public relations: the prepackaged, ready-to-serve news report that major corporations have long distributed to TV stations to pitch everything from headache remedies to auto insurance. In all, at least 20 federal agencies, including the Defense Department and the Census Bureau, have made and distributed hundreds of television news segments in the past four years, records and interviews show. Many were subsequently broadcast on local stations across the country without any acknowledgement of the government's role in their production.

This winter, Washington has been roiled by revelations that a handful of columnists wrote in support of administration policies without disclosing they had accepted payments from the government. But the administration's efforts to generate positive news coverage have been considerably more pervasive than previously known. At the same time, records and interviews suggest widespread complicity or negligence by television stations, given industry ethics standards that discourage the broadcast of prepackaged news segments from any outside group without revealing the source.

Federal agencies are forthright with broadcasters about the origin of the news segments they distribute. The reports themselves, though, are designed to fit seamlessly into the typical local news broadcast. In most cases, the ''reporters'' are careful not to state in the segment that they work for the government. Their reports generally avoid overt ideological appeals. Instead, the government's news-making apparatus has produced a quiet drumbeat of broadcasts describing a vigilant and compassionate administration.

Some reports were produced to support the administration's most cherished policy objectives, like regime change in Iraq or Medicare reform. Others focused on less prominent matters, like the administration's efforts to offer free after-school tutoring, its campaign to curb childhood obesity, its initiatives to preserve forests and wetlands, its plans to fight computer viruses, even its attempts to fight holiday drunken driving. They often feature ''interviews'' with senior administration officials in which questions are scripted and answers rehearsed. Critics, though, are excluded, as are any hints of mismanagement, waste or controversy.

Some of the segments were broadcast in some of nation's largest television markets, including New York, Los Angeles, Chicago, Dallas and Atlanta.

An examination of government-produced news reports offers a look inside a world where the traditional lines between public relations and journalism have become tangled, where local anchors introduce prepackaged segments with ''suggested'' leadins written by public relations experts. It is a world where government-produced reports disappear into a maze of satellite transmissions, Web portals, syndicated news programs and network feeds, only to emerge cleansed on the other side as ''independent'' journalism.

It is also a world where all participants benefit.

Local affiliates are spared the expense of digging up original material. Public relations firms secure government contracts worth millions of dollars. The major networks, which help distribute the releases, collect fees from the government agencies that produce segments and the affiliates that show them. The administration, meanwhile, gets out an unfiltered message, delivered in the guise of traditional reporting.

The practice, which also occurred in the Clinton administration, is continuing despite President Bush's recent call for a clearer demarcation between journalism and government publicity efforts. ''There needs to be a nice independent relationship between the White House and the press,'' Mr. Bush told reporters in January, explaining why his administration would no longer pay pundits to support his policies.

In interviews, though, press officers for several federal agencies said the president's prohibition did not apply to government-made television news segments, also known as video news releases. They described the segments as factual, politically neutral and useful to viewers. They insisted that there was no similarity to the case of Armstrong Williams, a conservative columnist who promoted the administration's chief education initiative, the No Child Left Behind Act, without disclosing $240,000 in payments from the Education Department.

What is more, these officials argued, it is the responsibility of television news directors to inform viewers that a segment about the government was in fact written by the government. ''Talk to the television stations that ran it without attribution,'' said William A. Pierce, spokesman for the Department of Health and Human Services. ''This is not our problem. We can't be held responsible for their actions.''

Yet in three separate opinions in the past year, the Government Accountability Office, an investigative arm of Congress that studies the federal government and its expenditures, has held that government made news segments may constitute improper ''covert propaganda'' even if their origin is made clear to the television stations. The point, the office said, is whether viewers know the origin. Last month, in its most recent finding, the G.A.O. said federal agencies may not produce prepackaged news reports ''that conceal or do not clearly identify for the television viewing audience that the agency was the source of those materials.''

It is not certain, though, whether the office's pronouncements will have much practical effect. Although a few federal agencies have stopped making television news segments, others continue. And on Friday, the Justice Department and the Office of Management and Budget circulated a memorandum instructing all executive branch agencies to ignore the G.A.O. findings. The memorandum said the G.A.O. failed to distinguish between covert propaganda and ''purely informational'' news segments made by the government. Such informational segments are legal, the memorandum said, whether or not an agency's role in producing them is disclosed to viewers.

Even if agencies do disclose their role, those efforts can easily be undone in a broadcaster's editing room. Some news organizations, for example, simply identify the government's ''reporter'' as one of their own and then edit out any phrase suggesting the segment was not of their making.

So in a recent segment produced by the Agriculture Department, the agency's narrator ended the report by saying ''In Princess Anne, Maryland, I'm Pat O'Leary reporting for the U.S. Department of Agriculture.'' Yet AgDay, a syndicated farm news program that is shown on some 160 stations, simply introduced the segment as being by ''AgDay's Pat O'Leary.'' The final sentence was then trimmed to ''In Princess Anne, Maryland, I'm Pat O'Leary reporting.''

Brian Conrady, executive producer of AgDay, defended the changes. ''We can clip 'Department of Agriculture' at our choosing,'' he said. ''The material we get from the U.S.D.A., if we choose to air it and how we choose to air it is our choice.''

SPREADING THE WORD: GOVERNMENT EFFORTS AND ONE WOMAN'S ROLE

Karen Ryan cringes at the phrase ''covert propaganda.'' These are words for dictators and spies, and yet they have attached themselves to her like a pair of handcuffs.

Not long ago, Ms. Ryan was a much sought-after ''reporter'' for news segments produced by the federal government. A journalist at ABC and PBS who became a public relations consultant, Ms. Ryan worked on about a dozen reports for seven federal agencies in 2003 and early 2004. Her segments for the Department of Health and Human Services and the Office of National Drug Control Policy were a subject of the accountability office's recent inquiries.

The G.A.O. concluded that the two agencies ''designed and executed'' their segments ''to be indistinguishable from news stories produced by private sector television news organizations.'' A significant part of that execution, the office found, was Ms. Ryan's expert narration, including her typical signoff—''In Washington, I'm Karen Ryan reporting''—delivered in a tone and cadence familiar to television reporters everywhere.

Last March, when The New York Times first described her role in a segment about new prescription drug benefits for Medicare patients, reaction was harsh. In Cleveland, The Plain Dealer ran an editorial under the headline ''Karen Ryan, You're a Phony,'' and she was the object of late-night jokes by Jon Stewart and received hate mail.

''I'm like the Marlboro man,'' she said in a recent interview.

In fact, Ms. Ryan was a bit player who made less than $5,000 for her work on government reports. She was also playing an accepted role in a lucrative art form, the video news release. ''I just don't feel I did anything wrong,'' she said. ''I just did what everyone else in the industry was doing.''

It is a sizable industry. One of its largest players, Medialink Worldwide Inc., has about 200 employees, with offices in New York and London. It produces and distributes about 1,000 video news releases a year, most commissioned by major corporations. The Public Relations Society of America even gives an award, the Bronze Anvil, for the year's best video news release.

Several major television networks play crucial intermediary roles in the business. Fox, for example, has an arrangement with Medialink to distribute video news releases to 130 affiliates through its video feed service, Fox News Edge. CNN distributes releases to 750 stations in the United States and Canada through a similar feed service, CNN Newsource. Associated Press Television News does the same thing worldwide with its Global Video Wire.

''We look at them and determine whether we want them to be on the feed,'' David M. Winstrom, director of Fox News Edge, said of video news releases. ''If got one that said tobacco cures cancer or something like that, I would kill it.''

In essence, video news releases seek to exploit a growing vulnerability of television news: Even as news staffs at the major networks are shrinking, many local stations are expanding their hours of news coverage without adding reporters.

''No TV news organization has the resources in labor, time or funds to cover every worthy story,'' one video news release company, TVA Productions, said in a sales pitch to potential clients, adding that ''90 percent of TV newsrooms now rely on video news releases.''

Federal agencies have been commissioning video news releases since at least the first Clinton administration. An increasing number of state agencies are producing television news reports, too; the Texas Parks and Wildlife Department alone has produced some 500 video news releases since 1993.

Under the Bush administration, federal agencies appear to be producing more releases, and on a broader array of topics.

A definitive accounting is nearly impossible. There is no comprehensive archive of local television news reports, as there is in print journalism, so there is no easy way to determine what has been broadcast, and when and where.

Still, several large agencies, including the Defense Department, the State Department and the Department of Health and Human Services, acknowledge expanded efforts to produce news segments. Many members of Mr. Bush's first-term cabinet appeared in such segments.

A recent study by Congressional Democrats offers another rough indicator: the Bush administration spent $254 million in its first term on public relations contracts, nearly double what the last Clinton administration spent.

Karen Ryan was part of this push—a ''paid shill for the Bush administration,'' as she self-mockingly puts it. It is, she acknowledges, an uncomfortable title.

Ms. Ryan, 48, describes herself as not especially political, and certainly no Bush diehard. She had hoped for a long career in journalism. But over time, she said, she grew dismayed by what she saw as the decline of television news—too many cut corners, too many ratings stunts.

In the end, she said, the jump to video news releases from journalism was not as far as one might expect. ''It's almost the same thing,'' she said.

There are differences, though. When she went to interview Tommy G. Thompson, then the health and human services secretary, about the new Medicare drug benefit, it was not the usual reporter-source exchange. First, she said, he already knew the questions, and she was there mostly to help him give better, snappier answers. And second, she said, everyone involved is aware of a segment's potential political benefits.

Her Medicare report, for example, was distributed in January 2004, not long before Mr. Bush hit the campaign trail and cited the drug benefit as one of his major accomplishments.

The script suggested that local anchors lead into the report with this line: ''In December, President Bush signed into law the first-ever prescription drug benefit for people with Medicare.'' In the segment, Mr. Bush is shown signing the legislation as Ms. Ryan describes the new benefits and reports that ''all people with Medicare will be able to get coverage that will lower their prescription drug spending.''

The segment made no mention of the many critics who decry the law as an expensive gift to the pharmaceutical industry. The G.A.O. found that the segment was ''not strictly factual,'' that it contained ''notable omissions'' and that it amounted to ''a favorable report'' about a controversial program.

And yet this news segment, like several others narrated by Ms. Ryan, reached an audience of millions. According to the accountability office, at least 40 stations ran some part of the Medicare report. Video news releases distributed by the Office of National Drug Control Policy, including one narrated by Ms. Ryan, were shown on 300 stations and reached 22 million households. According to Video Monitoring Services of America, a company that tracks news programs in major cities, Ms. Ryan's segments on behalf of the government were broadcast a total of at least 64 times in the 40 largest television markets.

Even these measures, though, do not fully capture the reach of her work. Consider the case of News 10 Now, a cable station in Syracuse owned by Time Warner. In February 2004, days after the government distributed its Medicare segment, News 10 Now broadcast a virtually identical report, including the suggested anchor lead-in. The News 10 Now segment, however, was not narrated by Ms. Ryan. Instead, the station edited out the original narration and had one of its reporters repeat the script almost word for word.

The station's news director, Sean McNamara, wrote in an e-mail message, ''Our policy on provided video is to clearly identify the source of that video.'' In the case of the Medicare report, he said, the station believed it was produced and distributed by a major network and did not know that it had originally come from the government.

Ms. Ryan said she was surprised by the number of stations willing to run her government segments without any editing or acknowledgement of origin. As proud as she says she is of her work, she did not hesitate, even for a second, when asked if she would have broadcast one of her government reports if she were a local news director.

''Absolutely not.''

LITTLE OVERSIGHT: TV'S CODE OF ETHICS, WITH UNCERTAIN WEIGHT

''Clearly disclose the origin of information and label all material provided by outsiders.''

Those words are from the code of ethics of the Radio-Television News Directors Association, the main professional society for broadcast news directors in the United States. Some stations go further, all but forbidding the use of any outside material, especially entire reports. And spurred by embarrassing publicity last year about Karen Ryan, the news directors association is close to proposing a stricter rule, said its executive director, Barbara Cochran.

Whether a stricter ethics code will have much effect is unclear; it is not hard to find broadcasters who are not adhering to the existing code, and the association has no enforcement powers.

The Federal Communications Commission does, but it has never disciplined a station for showing government-made news segments without disclosing their origin, a spokesman said.

Could it? Several lawyers experienced with F.C.C. rules say yes. They point to a 2000 decision by the agency, which stated, ''Listeners and viewers are entitled to know by whom they are being persuaded.''

In interviews, more than a dozen station news directors endorsed this view without hesitation. Several expressed disdain for the prepackaged segments they received daily from government agencies, corporations and special interest groups who wanted to use their airtime and credibility to sell or influence.

But when told that their stations showed government-made reports without attribution, most reacted with indignation. Their stations, they insisted, would never allow their news programs to be co-opted by segments fed from any outside party, let alone the government.

''They're inherently one-sided, and they don't offer the possibility for follow-up questions—or any questions at all,'' said Kathy Lehmann Francis, until recently the news director at WDRB, the Fox affiliate in Louisville, Ky.

Yet records from Video Monitoring Services of America indicate that WDRB has broadcast at least seven Karen Ryan segments, including one for the government, without disclosing their origin to viewers.

Mike Stutz, news director at KGTV, the ABC affiliate in San Diego, was equally opposed to putting government news segments on the air.

''It amounts to propaganda, doesn't it?'' he said.

Again, though, records from Video Monitoring Services of America show that from 2001 to 2004 KGTV ran at least one government-made segment featuring Ms. Ryan, 5 others featuring her work on behalf of corporations, and 19 produced by corporations and other outside organizations. It does not appear that KGTV viewers were told the origin of these 25 segments.

''I thought we were pretty solid,'' Mr. Stutz said, adding that they intend to take more precautions.

Confronted with such evidence, most news directors were at a loss to explain how the segments made it on the air. Some said they were unable to find archive tapes that would help answer the qustion. Others promised to look into it, then stopped returning telephone messages. A few removed the segments from their Web sites, promised greater vigilance in the future or pleaded ignorance.

AFGHANISTAN TO MEMPHIS: AN AGENCY'S REPORT ENDS UP ON THE AIR

On Sept. 11, 2002, WHBQ, the Fox affiliate in Memphis, marked the anniversary of the 9/11 attacks with an uplifting report on how assistance from the United States was helping to liberate the women of Afghanistan.

Tish Clark, a reporter for WHBQ, described how Afghan women, once barred from schools and jobs, were at last emerging from their burkas, taking up jobs as seamstresses and bakers, sending daughters off to new schools, receiving decent medical care for the first time and even participating in a fledgling democracy. Her segment included an interview with an Afghan teacher who recounted how the Taliban only allowed boys to attend school. An Afghan doctor described how the Taliban refused to let male physicians treat women.

In short, Ms. Clark's report seemed to corroborate, however modestly, a central argument of the Bush foreign policy, that forceful American intervention abroad was spreading freedom, improving lives and winning friends.

What the people of Memphis were not told, though, was that the interviews used by WHBQ were actually conducted by State Department contractors. The contractors also selected the quotes used from those interviews and shot the video that went with the narration. They also wrote the narration, much of which Ms. Clark repeated with only minor changes.

As it happens, the viewers of WHBQ were not the only ones in the dark.

Ms. Clark, now Tish Clark Dunning, said in an interview that she, too, had no idea the report originated at the State Department. ''If that's true, I'm very shocked that anyone would false report on anything like that,'' she said.

How a television reporter in Memphis unwittingly came to narrate a segment by the

State Department reveals much about the extent to which government-produced news accounts have seeped into the broader news media landscape.

The explanation begins inside the White House, where the president's communications advisers devised a strategy after Sept. 11, 2001, to encourage supportive news coverage of the fight against terrorism. The idea, they explained to reporters at the time, was to counter charges of American imperialism by generating accounts that emphasized American efforts to liberate and rebuild Afghanistan and Iraq.

An important instrument of this strategy was the Office of Broadcasting Services, a State Department unit of 30 or so editors and technicians whose typical duties include distributing video from news conferences. But in early 2002, with close editorial direction from the White House, the unit began producing narrated feature reports, many of them promoting American achievements in Afghanistan and Iraq and reinforcing the administration's rationales for the invasions. These reports were then widely distributed in the United States and around the world for use by local television stations. In all, the State Department has produced 59 such segments.

United States law contains provisions intended to prevent the domestic dissemination of government propaganda. The 1948 Smith-Mundt Act, for example, allows Voice of America to broadcast progovernment news to foreign audiences, but not at home. Yet State Department officials said that law does not apply to the Office of Broadcasting Services. In any event, said Richard A. Boucher, a State Department spokesman: ''Our goal is to put out facts and the truth. We're not a propaganda agency.''

Even so, as a senior department official, Patricia Harrison, told Congress last year, the Bush administration has come to regard such ''good news'' segments as ''powerful strategic tools'' for influencing public opinion. And a review of the department's segments reveals a body of work in sync with the political objectives set forth by the White House communications team after 9/11.

In June 2003, for example, the unit produced a segment that depicted American efforts to distribute food and water to the people of southern Iraq. ''After living for decades in fear, they are now receiving assistance—and building trust—with their coalition liberators,'' the unidentified narrator concluded.

Several segments focused on the liberation of Afghan women, which a White House memo from January 2003 singled out as a ''prime example'' of how ''White House-led efforts could facilitate strategic, proactive communications in the war on terror.''

Tracking precisely how a ''good news'' report on Afghanistan could have migrated to Memphis from the State Department is far from easy. The State Department typically distributes its segments via satellite to international news organizations like Reuters and Associated Press Television News, which in turn distribute them to the major United States networks, which then transmit them to local affiliates.

''Once these products leave our hands, we have no control,'' Robert A. Tappan, the State Department's deputy assistant secretary for public affairs, said in an interview. The department, he said, never intended its segments to be shown unedited and without attribution by local news programs. ''We do our utmost to identify them as State Department-produced products.''

Representatives for the networks insist that government-produced reports are clearly labeled when they are distributed to affiliates. Yet with segments bouncing from satellite to satellite, passing from one news organization to another, it is easy to see the potential for confusion. Indeed, in response to questions from The Times, Associated Press Television News acknowledged that they might have distributed at least one segment about Afghanistan to the major United States networks without identifying it as the product of the State Department. A spokesman said it could have ''slipped through our net because of a sourcing error.''

Kenneth W. Jobe, vice president for news at WHBQ in Memphis, said he could not explain how his station came to broadcast the State Department's segment on Afghan women. ''It's the same piece, there's no mistaking it,'' he said in an interview, insisting that it would not happen again.

Mr. Jobe, who was not with WHBQ in 2002, said the station's script for the segment has no notes explaining its origin. But Tish Clark Dunning said it was her impression at the time that the Afghan segment was her station's version of one done first by network correspondents at either Fox News or CNN. It is not unusual, she said, for a local station to take network reports and then give them a hometown look.

''I didn't actually go to Afghanistan,'' she said. ''I took that story and reworked it. I had to do some research on my own. I remember looking on the Internet and finding out how it all started as far as women covering their faces and everything.''

At the State Department, Mr. Tappan said the broadcasting office is moving away from producing narrated feature segments. Instead, the department is increasingly supplying only the ingredients for reports—sound bites and raw video. Since the shift, he said, even more State Department material is making its way into news broadcasts.

MEETING A NEED: RISING BUDGET PRESSURES, READY-TO-RUN SEGMENTS

WCIA is a small station with a big job in central Illinois.

Each weekday, WCIA's news department produces a three-hour morning program, a noon broadcast and three evening programs. There are plans to add a 9 p.m. broadcast. The staff, though, has been cut to 37 from 39. ''We are doing more with the same,'' said Jim P. Gee, the news director.

Farming is crucial in Mr. Gee's market, yet with so many demands, he said, ''It is hard for us to justify having a reporter just focusing on agriculture.''

To fill the gap, WCIA turned to the Agriculture Department, which has assembled one of the most effective public relations operations inside the federal government. The department has a Broadcast Media and Technology Center with an annual budget of $3.2 million that each year produces some 90 ''mission messages'' for local stations—mostly feature segments about the good works of the Agriculture Department.

''I don't want to use the word 'filler,' per se, but they meet a need we have,'' Mr. Gee said.

The Agriculture Department's two full-time reporters, Bob Ellison and Pat O'Leary, travel the country filing reports, which are vetted by the department's office of communications before they are distributed via satellite and mail. Alisa Harrison, who oversees the communications office, said Mr. Ellison and Mr. O'Leary provide unbiased, balanced and accurate coverage.

''They cover the secretary just like any other reporter,'' she said.

Invariably, though, their segments offer critic-free accounts of the department's policies and programs. In one report, Mr. Ellison told of the agency's efforts to help Florida clean up after several hurricanes.

''They've done a fantastic job,'' a grateful local official said in the segment.

More recently, Mr. Ellison reported that Mike Johanns, the new agriculture secretary, and the White House were determined to reopen Japan to American beef products. Of his new boss, Mr. Ellison reported, ''He called Bush the best envoy in the world.''

WCIA, based in Champaign, has run 26 segments made by the Agriculture Department over the past three months alone. Or put another way, WCIA has run 26 reports that did not cost it anything to produce.

Mr. Gee, the news director, readily acknowledges that these accounts are not exactly independent, tough-minded journalism. But, he added: ''We don't think they're propaganda. They meet our journalistic standards. They're informative. They're balanced.''

More than a year ago, WCIA asked the Agriculture Department to record a special sign-off that implies the segments are the work of WCIA reporters. So, for example, instead of closing his report with ''I'm Bob Ellison, reporting for the U.S.D.A.,'' Mr. Ellison says, ''With the U.S.D.A., I'm Bob Ellison, reporting for 'The Morning Show.' ''

Mr. Gee said the customized sign-off helped raise ''awareness of the name of our station.'' Could it give viewers the idea that Mr. Ellison is reporting on location with the U.S.D.A. for WCIA? ''We think viewers can make up their own minds,'' Mr. Gee said.

Ms. Harrison, the Agriculture Department press secretary, said the WCIA sign-off was an exception. The general policy, she said, is to make clear in each segment that the reporter works for the department. In any event, she added, she did not think there was much potential for viewer confusion. ''It's pretty clear to me,'' she said.

THE 'GOOD NEWS' PEOPLE: A MENU OF REPORTS FROM MILITARY HOT SPOTS

The Defense Department is working hard to produce and distribute its own news segments for television audiences in the United States.

The Pentagon Channel, available only inside the Defense Department last year, is now being offered to every cable and satellite operator in the United States. Army public affairs specialists, equipped with portable satellite transmitters, are roaming war zones in Afghanistan and Iraq, beaming news reports, raw video and interviews to TV stations in the United States. All a local news director has to do is log on to a military-financed Web site, www.dvidshub.net., browse a menu of segments and request a free satellite feed.

Then there is the Army and Air Force Hometown News Service, a unit of 40 reporters and producers set up to send local stations news segments highlighting the accomplishments of military members.

''We're the 'good news' people,'' said Larry W. Gilliam, the unit's deputy director.

Each year, the unit films thousands of soldiers sending holiday greetings to their hometowns. Increasingly, the unit also produces news reports that reach large audiences. The 50 stories it filed last year were broadcast 236 times in all, reaching 41 million households in the United States.

The news service makes it easy for local stations to run its segments unedited. Reporters, for example, are never identified by their military titles. ''We know if we put a rank on there they're not going to put it on their air,'' Mr. Gilliam said.

Each account is also specially tailored for local broadcast. A segment sent to a station in Topeka, Kan., would include an interview with a service member from there. If the same report is sent to Oklahoma City, the soldier is switched out for one from Oklahoma City. ''We try to make the individual soldier a star in their hometown,'' Mr. Gilliam said, adding that segments were distributed only to towns and cities selected by the service members interviewed.

Few stations acknowledge the military's role in the segments. ''Just tune in and you'll see a minute-and-a-half news piece and it looks just like they went out and did the story,'' Mr. Gilliam said. The unit, though, makes no attempt to advance any particular political or policy agenda, he said.

''We don't editorialize at all,'' he said.

Yet sometimes the ''good news'' approach carries political meaning, intended or not. Such was the case after the Abu Ghraib prison scandal surfaced last spring. Although White House officials depicted the abuse of Iraqi detainees as the work of a few rogue soldiers, the case raised serious questions about the training of military police officers.

A short while later, Mr. Gilliam's unit distributed a news segment, sent to 34 stations, that examined the training of prison guards at Fort Leonard Wood in Missouri, where some of the military police officers implicated at Abu Ghraib had been trained.

''One of the most important lessons they learn is to treat prisoners strictly but fairly,'' the reporter said in the segment, which depicted a regimen emphasizing respect for detainees. A trainer told the reporter that military police officers were taught to ''treat others as they would want to be treated.'' The account made no mention of Abu Ghraib or how the scandal had prompted changes in training at Fort Leonard Wood.

According to Mr. Gilliam, the report was unrelated to any effort by the Defense Department to rebut suggestions of a broad command failure.

''Are you saying that the Pentagon called down and said, 'We need some good publicity?' '' he asked. ''No, not at all.''

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from West Virginia [Mr. BYRD] for himself, Mrs. CLINTON, Mr. LAUTENBERG, Mr. KERRY, Mr. WYDEN, Mr. DORGAN, Mr. HARKIN, and Mr. KENNEDY, proposes an amendment numbered 430.

Mr. COCHRAN. I ask unanimous consent the reading of the amendment be dispensed with.

Mr. BYRD. I have no objection to that.

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

The amendment is as follows:

(Purpose: To prohibit the use of funds by any Federal agency to produce a prepackaged news story without including in such story a clear notification for the audience that the story was prepared or funded by a Federal agency)

At the appropriate place, insert the following:

SEC. ____. None of the funds provided in this Act or any other Act may be used by a Federal agency to produce any prepackaged news story unless the story includes a clear notification to the audience that the story was prepared or funded by that Federal agency.

Mr. KENNEDY. Mr. President, I applaud the Senator from West Virginia for his amendment. We have to put a stop to all of the taxpayer-financed propaganda put out by our government to influence the American people.

Over the last year, we have found out that the Bush administration has used taxpayer funds to finance ''fake news reports'' by actors posing as reporters, not actual journalists, who read the administration's script on prescription drugs and the No Child Left Behind education program. Even more recently, we have found out that a number of actual real-life journalists have been secretly paid by the Bush administration to promote its political agenda. This is dangerous to our democracy. It's an unethical misuse of taxpayer funds.

Senator LAUTENBERG and I have generated a series of investigations by the Government Accountability Office critical of the Bush administration's propaganda efforts. We have introduced legislation, the Stop Government Propaganda Act, that the Byrd amendment complements. Our legislation, like the Byrd amendment, specifically prevents the administration—any administration, Democratic or Republican—from paying actors to pose as legitimate journalists in order to push for a political agenda.

I urge my colleagues to support the Byrd amendment. Congress cannot sit still while the administration corrupts the first amendment and freedom of the press.

Mr. GREGG. Mr. President, I am intrigued by the amendment of the Senator from West Virginia. I do not believe taxpayers should be funding propaganda. I think it is totally inappropriate, other than in an attempt to promote American policy overseas, for example, where we should be funding communication with other people around the Earth, as we do through Radio Free America, Radio Liberty, and other radio stations that have been developed over the years for the purposes of presenting the American position in regions of the world where our access is limited.

But here in the United States, clearly, if the Government wishes to make a point, that should be disclosed. If taxpayers' dollars are being used to make a point, that should be disclosed. I agree with the basic concept of the theme of the Senator's amendment. So I expect that this amendment must apply to National Public Radio. National Public Radio, of course, receives a large amount of tax subsidy. It presents views which one could argue are propaganda, in many instances. If I read this amendment correctly, I believe, and I would hope the record would reflect, this amendment will apply to National Public Radio so that when they put out a newscast it will have to be announced that this newscast is put out at the expense of the American taxpayer and that the American taxpayer has paid for this report.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I see my colleague from Maryland is also seeking the floor. We both have important meetings at 3 o'clock. I wondered how long the Senator from Maryland will take?

Ms. MIKULSKI. Less than a minute.

Mr. BOND. I am happy to yield to my colleague from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I ask for the regular order with respect to my amendment.

The PRESIDING OFFICER. That amendment is now pending.

CLOTURE MOTION

Ms. MIKULSKI. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Mikulski amendment No. 387 to H.R. 1268.

B.A. Mikulski, J. Lieberman, J. Corzine, Jeff Bingaman, Byron Dorgan, Ron Wyden, Ken Salazar, Hillary Clinton, Mark Pryor, Dick Durbin, Bill Nelson, Chuck Schumer, Barack Obama, Frank Lautenberg, Patrick Leahy, Debbie Stabenow, Chris Dodd.

Ms. MIKULSKI. Mr. President, I understand that negotiations are ongoing on all of the immigration provisions. I am sorry I have to do this, and I will be very glad to withdraw this cloture motion if we are able to come to an understanding.

AMENDMENT NO. 430

I now ask unanimous consent that the Senate resume consideration of the Byrd amendment.

The PRESIDING OFFICER (Mr. ENSIGN). Is there objection?

Without objection, it is so ordered.

The Senator from Missouri.

Mr. BOND. Mr. President, I appreciate the comments raised by the Senator from New Hampshire.

As chairman of the new Appropriations Subcommittee on Transportation, Treasury, Judiciary, and HUD, I understand this measure would fall within the general government provisions of this bill. While I think all of us share concerns that have been expressed by the distinguished Senator from West Virginia, I urge my colleagues to oppose this amendment. We appreciate what the Senator is trying to do, but I don't believe his amendment provides the appropriate remedy to the problems he has described.

Using Federal funds for the purpose of propaganda is already unlawful under section 1913 of title 18 of the United States Code, and the governmentwide general provisions title of the Transportation, Treasury Appropriations Act includes further restrictions from using appropriated funds for propaganda.

Section 624 of the 2005 Transportation, Treasury Appropriations Act states:

No part of any appropriations contained in this or any other Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

The distinction between educating the public about an issue and advocating a policy is not always obvious.

If the Senator's amendment better defined appropriate communications by Federal agencies from publicity or propaganda, I would join with the Senator in support. The Senator's amendment, however, does not add any clarity to the murky waters of advocacy and does not make the line between education and advocacy any brighter, and in fact may have some untoward consequences that I feel are sufficient to kill the amendment.

The uniform practice of the Federal Government is and has been to provide full disclosure that video news releases or other matters are prepared or funded by a Federal agency. The sponsoring Government agency identifies itself at the beginning of a video news release.

Just as newspaper reporters and editors parse through their press releases issued by Federal agencies, television news rooms make editorial and content decisions about how to use video news releases. It is, in fact, an editorial decision of the broadcast station to air or not to air the agency identification.

The Senator's amendment, however, would begin the practice of allowing the Federal Government to make editorial decisions and dictating broadcast content of news reports.

Alternatively, it would require that any use of material supplied by the Federal Government must be disclosed in a manner that I believe would have a chilling impact on the freedom of speech and on the freedom of press. Such mandate on the broadcast media may in fact be unconstitutional.

If this amendment were adopted, it may have the unintended consequence of reducing the use of this important tool, thereby undermining the ability of the Federal Government to meet its obligation to inform the public of important information.

I believe the impact would be felt in rural areas, especially as broadcasters in small and medium markets rely on video news releases more than their big-city colleagues.

If we go back and look at the history, we see that video news releases have been used by Government agencies since the beginning of video. The USDA produced some of the first footage of the Wright brothers' early flight tests in the early 1919s, as well as the highly acclaimed Dust Bowl documentary, ''The Plow That Broke the Plains,'' 1935.

In the 1980s, to respond to a changing broadcast environment, USDA established a weekly satellite feed of material for news and farm broadcasters. This included ready-to-air feature stories, sometimes called video news releases. The information includes where there are signups for commodity or disaster programs; promoting producer participation in county committee elections; new farming practices or technologies; or important crop reports and surveys.

From the Department of Health and Human Services, there has been a long list of video news releases such as the Surgeon General's Osteoporosis and Bone Health Report; educating the public health officials on how to recognize anthrax; CDC in post 9/11, educating the public on CDC's capabilities; healthy baby news releases, which I have been very interested in. The Health Resource Services Administration put out a video news release educating parents and parents-to-be on the health care of their newborns.

There have been efforts to educate women of childbearing age about the absolute necessity of including 400 micrograms of the appropriate vitamins in their diets to prevent tooth defects.

The CDC has educated public and health communities about the proper use of antibiotics and the potential problems of overuse of antibiotics.

The IRS has produced VNRs on two topics: how to file electronically, and the earned income tax credit. The goal was to generate coverage of the e-filing to help Americans understand qualifications for claiming the EITC.

These news releases were produced by an advertising agency, and pitched in the media outlets by our IRS media specialists who provided full disclosure to the media outlets if they were from the IRS.

This amendment goes further, however, and says the entity using this information must include a clear notice that it was prepared or funded by a Federal agency. That is a requirement on not only broadcasters but on newspapers, which I think steps over the line.

As the distinguished Senator from West Virginia pointed out, the FCC yesterday unanimously clarified the rules applying to broadcasters, saying they must disclose to the viewer the origin of video news releases, though the agency does not specify what form that disclosure must take.

Commissioner Adelstein, a Democrat, said:

> We have a responsibility to tell broadcasters that they have to let people know where the material is coming from. Viewers would think it was a real news story when it might be from government or a big corporation trying to influence how they think. This would be put them in a better position to decide for themselves what to make of it.

The FCC has already acted in this area.

I am very much concerned that the amendment proposed by the distinguished Senator from West Virginia would go even further in attempting to dictate by congressional action what should be reported, not only in video or electronic news stories but in print media stories as well. That is objectionable. That would cause many problems for media of all types.

I urge my colleagues to oppose this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. I rise in support of the Byrd amendment. This amendment is important. It is offered at an important time, and it is offered during a period when we have seen so many examples of fake news, or propaganda, to use another word.

I don't think this is partisan. I think it would apply to a Republican or Democratic administration.

The question is, Should the Federal Government be involved in propaganda? Should we be observant of fake news and do nothing about it?

The Senator from West Virginia offers an amendment that is filled with common sense. Let me describe a fake news program. A report narrated by a woman who speaks in glowing terms about an administration's plan and concludes by saying: ''In Washington, this is Karen Ryan reporting.''

The Department of Health and Human Services spent $44,000 in taxpayer dollars on this type of propaganda. Is this what we want to pass for news?

I have talked often in the Senate on a subject very important to me, the concentration of broadcasting in this country. Fewer and fewer people owning more and more broadcast properties, controlling what people see, hear, and think by what is presented to them. As more and more companies are bought, they hollow out the newsrooms, get rid of the newsroom staff, and just have a shell left. Then they are interested in filling that shell with cheap media feeds.

If you read the discussion about what has prompted these television stations to run these prepackaged fake news items, they are looking for fillers for a news script because they got rid of their news people. So this, now, passes as news when, in fact, it is fake news.

In my judgment, it ought to be labeled exactly what it is. That is what the Senator is offering with respect to this amendment. This is not an amendment that is in any way radical. It is an amendment that is filled with common sense.

A few minutes ago my colleague who talked about Public Broadcasting or National Public Radio was clever and funny—and good for him—but this has nothing to do with the issue at hand. Winning debates that we are not having is hardly a blue ribbon activity in this Chamber. This debate is not about National Public Radio or anything of the sort. It is about the specific subject that my colleague from West Virginia brings to the Senate.

The subject, incidentally, has more tentacles attached to it. We learned in January a syndicated columnist, Armstrong Williams, had been paid a quarter of a million dollars, actually $240,000, to promote the No Child Left Behind Program on his television show and to urge other African-American journalists to do the same. That contract was not disclosed to the public. It was taxpayers' dollars offered to a journalist, commentator, television personality, and we only learned about it because USA Today obtained the

document through a Freedom of Information request.

That, incidentally, was part of a $1 million deal with the Ketchum public relations firm which was contracted to produce video news releases designed to appear like real news reports.

So there is more to do on this issue than just the Byrd amendment. That is why I say this amendment is modest in itself. It is not, as some would suggest, a big deal. It is a modest amendment that addresses a problem in a very specific way. We really do have more to do dealing with some of the other tentacles—the hiring of public relations firms to the tune of tens of millions of dollars.

We found out in late January the Department of Health and Human Services paid $21,500 to another syndicated columnist to advocate a $300 million Presidential proposal encouraging marriage. That contract was not disclosed either.

The list goes on. Fake news. We discovered a while back the White House had allowed a fake journalist, using a fake name, to get a daily clearance to come into the Presidential news conference and daily news briefings and to ask questions. Another part of fake news, I guess, a different tentacle and a different description.

The Byrd amendment is simple on its face. The question is, Do we want fake news being produced with taxpayers' dollars with no disclosure at all; that it is, in fact, propaganda, not news?

I support the Byrd amendment. I hope we will address other parts of this issue at some future time. This amendment is modest enough, and my hope is to engage a majority of the Senate to be supportive of it.

While I have the floor, I might indicate a second time that I intend to offer an amendment that would cease or discontinue funding for the independent counsel who is still active, an independent counsel who was impaneled to investigate the payment of money to a mistress by a former Cabinet official, Mr. Cisneros. That independent counsel has spent now $21 million over 10 years. The particular Cabinet official admitted the indiscretion. He pled guilty in Federal court and he since left office and has since been pardoned by a President in 2001. Yet the independent counsel investigating this is still investigating it, still spending money.

The most recent report showed this independent counsel spent $1.26 million in Federal funds over the previous 6 months, which brings it to $21 million by an independent counsel's office that was launched nearly 10 years ago to investigate a Cabinet official who left the Government very soon thereafter, who then pled guilty, who then was pardoned. In 1995, the independent counsel was named. That was 10 years ago. In 1999, the Cabinet official pled guilty. In 2001, 4 years ago, the Cabinet official was given a Presidential pardon. Yet we have an independent counsel's office that is still spending money.

We ought to shut off that money. I will offer an amendment to do that, telling that independent counsel the money dries up on June 1. Finish your report and leave town—at least if your home is elsewhere—but finish up the report and get off the public payroll after 10 years, 4 years after the subject in question received a Presidential pardon, 6 years after the subject in question pled guilty in court.

Some things need addressing on an urgent basis. This one does. I understand it, too, will not be, perhaps, germane to this bill, but it is one that I hope every Senator would understand we ought to shut down.

With that, I appreciate the amendment offered by Senator BYRD. I am pleased to come over in support of that amendment this afternoon.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I thank the very distinguished Senator for his support and for his statement. It is a very pertinent statement. In the FCC Public Notice 05–84, dated April 13, 2005, on page 2, it says:

> This Public Notice is confined to the disclosure obligations required under Section 317 and our rules thereunder, and does not address the recent controversy over when or whether the government is permitted to sponsor VNRs, which is an issue beyond the Commission's jurisdiction.

My amendment is simple and clear. Here is what it says:

> None of the funds provided in this Act or any other Act may be used by a Federal agency to produce any prepackaged news story unless the story includes a clear notification to the audience that the story was prepared or funded by that Federal agency.

Mr. President, it does not create confusion, as a Senator said a moment ago. It creates clarity.

Mr. BYRD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I notice that the distinguished Senator from New Jersey is on the floor. He is a cosponsor of this amendment. I assume he is here to talk on the amendment. I was going to try to bring the discussion to a close so we could vote on the amendment or vote in relation to the amendment, but I am happy to withhold because I do not want to cut off anyone who wants to talk on this subject.

Mr. LAUTENBERG. Mr. President, I am not sure I heard precisely what the manager was asking. I would help bring this to a close by giving my remarks very quickly. I appreciate the opportunity and thank the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I salute my colleague and friend, the Senator from West Virginia. Senator BYRD is someone I greatly respect and admire. I have now been here a long time, even though, according to the rules, I am a freshman or just above a freshman, maybe a sophomore—I don't think so—but whenever Senator ROBERT C. BYRD speaks, it is always worth listening. And I find more often than not it is very much worth following the idea that the Senator from West Virginia puts forward.

So I am pleased to support the Byrd amendment on propaganda. It is an issue that has disturbed me over time and something I have worked on. The Byrd amendment is an important step toward preventing the Government from delivering messages that are, if I can call them, kind of incognito. They are hidden from identifying as to what they really are. It is a step toward accomplishing a goal that is not clearly defined as being presented as a neutral observer. So we want to stop the spread of covert Government propaganda.

By the way, I want it to be understood that this is not brand new. This is not something that has only happened since this administration took over; it happened in years past.

I was asked the question at a hearing this morning: Well, then why didn't we talk about it in years past? Because there has been a proliferation of these things. As a consequence, I think for all parties but particularly for the American people, it is a good idea to use this opportunity to clear up the situation.

As a result of a request I made with Senator KENNEDY, the Government Accountability Office ruled that fake television news stories, produced by the administration, or produced, period, were illegal propaganda. The fake news accounts that were produced, known as ''prepackaged news stories,'' featured a report by Karen Ryan. The news story extolled the benefits of the new Medicare law and ended with a statement:

> This is Karen Ryan, reporting from Washington.

But Karen Ryan is not a reporter. She is a public relations consultant working for a firm hired by the Government. So it is designed to fool people into believing that this news reporter had come on to something really great and wanted to add her view of the efficacy of the program.

Now, that fake news story made its way onto local news shows on 40 television stations across the country. Once again, people thought they were watching news. Americans watched Karen Ryan's report and thought they were hearing the real deal, but what they were watching was Government-produced propaganda.

Think about that for a second. Our Government is sending out news reports to television stations across the country by satellite. Many of these news stations had no way of knowing that the reports were Government propaganda. News stations across the country have run Government news stories without realizing what they had. This is not aimed at the broadcasters; it is aimed at clarifying the

fact that we do not think the Government should be doing this. The stations that had this story and did not realize it was not fresh news included a station in Memphis, TN, WHBQ; KGTV in San Diego; WDRB in Louisville, KY. The list goes on and on about producers who were fooled by the fact that they were getting a propaganda piece and did not recognize that it was not news.

If the news stations did not know the story was produced by the Government, how would the viewer ever know that? How would a family, let's say, in Covington, TN, watching WHBQ, know that Karen Ryan, the person in this case, is not a reporter? How would they know the news story they just watched was concocted to sell something, actually Government propaganda? The reality is, they would not know.

We had a situation of similar character with a reporter named Armstrong Williams. Mr. Williams had a program, a news program, and he was paid a couple hundred thousand dollars, as I remember the number, to take this story and talk about it as news when, in fact, it was a paid-for story designed to deceive, very frankly. So we have seen it.

The GAO said that this practice is not only wrong but illegal. The GAO said the fake news stories were illegal because they did not disclose the fact that the Government was behind it. GAO is right. We cannot allow covert propaganda to be done by our Government, continued by a practice that has been condemned by GAO.

The Byrd amendment will give Federal agencies clear direction on this issue. It is a simple proposition: The Government needs to disclose its role. I do not think that is a lot to ask; otherwise, every ad that goes on the air has a disclosure on it. It identifies the product, uses a trademark, all kinds of things. But they make sure people know it is being done for a mission.

For whatever reason, the administration has refused to go along with the GAO ruling. They have said so: Yes, we know it. But so what? The Office of Management and Budget recently sent out a memo saying that agencies could continue to produce fake news stories and hide the Government's role.

That is their opinion, but I don't agree with it. Certainly, the Byrd amendment challenges that view. We need to be straight with the American people. When we are running ads, it has to say, ad run by the United States Government. We need to reject covert government propaganda. We can do it today with this amendment. The Byrd amendment will make the rules on this matter crystal clear. I hope we can get the support to do this, to say to the American people, when you see a piece of news, don't let it be biased by Government ads that pay for it. Why would the Government pay for it? Once again, when an ad is run, it is to sell someone a bill of goods. That doesn't mean it is a bad piece of goods, but it is designed to sell something. We ought not let that be the product of the United States Government when talking to the people across the country.

I hope we will be able to pass this. I commend the Senator from West Virginia for offering it. I hope our colleagues will support it.

I yield the floor.

Mr. BYRD. Mr. President, I thank the distinguished Senator from New Jersey for his comments and support. I thank him profusely.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I ask unanimous consent to speak on the pending Mikulski amendment.

Mr. COCHRAN. Reserving the right to object—I, of course, will not object—it is my hope that we can continue to deal with the Byrd amendment and dispose of the Byrd amendment. Then the Senator can talk about the Mikulski amendment or any other amendment he wants to talk about.

I do not have an objection.

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

AMENDMENT NO. 387

Mr. JEFFORDS. Mr. President, I would like to take a moment to talk about the amendment offered by the Senator from Maryland. As a cosponsor of that amendment, I rise in support of this amendment to the supplemental appropriations bill.

The Save Our Small and Seasonal Business Act, on which this amendment is based, is very important to my State of Vermont. This amendment will ensure the seasonal businesses in our country have the workers they need to support their company, our local economics, and to help the U.S. economy flourish. Action on this critical issue is long overdue.

In March of last year, the United States Citizenship and Immigration Services announced they had received enough petitions to meet the cap on the H–2B visas. As a result, they stopped accepting petitions for these temporary work visas halfway through the Federal fiscal year. This announcement was a shock to many businesses throughout the country that depend on foreign workers to fill their temporary and seasonal positions.

Tourism is the largest sector of Vermont's economy and, as a result, many Vermont businesses hire seasonal staff during their summer, winter, or fall seasons. Last year, I heard from many Vermont businesses that were unable to employ foreign workers for their summer and fall seasons because the cap had been reached. Not only was this unexpected, but many of the individuals were people who had been returning to the same employer year after year. These employers lost essential staff and, in many cases, well-trained, experienced employees.

While I am proud to say that Vermont businesses have risen to this challenge with hard work and creativity in the past, the need for these workers has not, and will not, diminish. Congress must act and must act now. The companies I have heard from are proud of the work their staffs have done under these circumstances. Yet they believe their businesses and their personnel will suffer if they are not able to employ seasonal foreign workers again this year. Many foresee a devastating effect on their businesses if they are not able to bring in foreign workers soon.

I have also heard from Vermont businesses that they had to lay off or not hire American workers because they could not find enough employees to round out their crews. Without having the sufficient number of workers to complete projects, they could not hire or maintain their year-round staff. They also could not bid on projects and many had to scale back their operations. In these instances, the lack of seasonal workers had a detrimental effect on our economy and on the employment of American workers.

As many may know, I strongly believe American workers must be given the opportunity to fill jobs and that this Nation's strength is in its own workforce. However, the companies that have contacted me did their utmost to find Americans for positions available. Efforts to find American workers included working closely with the State of Vermont's Employment and Training Office, increasing wages and benefits, and implementing aggressive, year-round recruiting.

We are lucky in Vermont to count tourism among our chief industries, and we have our beautiful rural landscape to thank for the visitors who flock to our small State each year. While many Vermont businesses were able to survive last year, thanks to that old Yankee ingenuity, I am not optimistic about this year. It is imperative we immediately address this problem in order to prevent further harm to this Nation's small businesses and the economy.

I urge my colleagues to support this amendment by Senator MIKULSKI.

I yield the floor.

AMENDMENT NO. 430

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. DURBIN. Mr. President, I rise in support of the Byrd-Lautenberg amendment. I would like to say a few words. I know we may be moving close to a vote, and the chairman of the committee has been patiently awaiting that possibility.

Tonight you are going to turn on your nightly news and try to get some information. People do it all the time. You expect when you turn on your television and turn on a newscast, the information being given to you is objective, at least as objective as people can make it. It isn't a paid advertisement; it is the news. If you are running a paid advertisement, you would know it. It would have laundry detergent on it or some new pharmaceutical drug or a political ad with a disclaimer at the bottom.

When you turn on your newscast, you don't expect to get hit by an ad that doesn't look like an ad. That is what the Byrd amendment is all about. The General Accounting Office took a look at some of the ads that were being sent out by the Bush administration for their policies and programs and said they went too far. They didn't identify the videos they were sending to these television stations were actually produced by the Bush administration, by these agencies, to promote a particular point of view. They basically said these ads deceived the American people. They were propaganda from the Government.

We decided a long time ago you couldn't do that. If you were going to put that kind of information up to try to convince the American people, one way or the other, you have an obligation to tell them so. The basic rule in this country is people want to hear both sides of the story, then make up their own minds. They want to know what is a fact and what is an opinion. Make up your own mind. You can't do it when there is a deception involved.

It is that deception that Senator BYRD is addressing. The Byrd amendment is so brief and to the point, it is worth repeating:

None of the funds provided in this Act or any other Act may be used by a Federal agency to produce any prepackaged news story unless the story includes a clear notification to the audience that the story was prepared or funded by that Federal agency.

That is pretty simple. Tell us who prepared it. If it was prepared at taxpayer expense by the Senate, it should disclose that. If it was prepared by an agency of the Bush administration, disclose it. Then the American people decide. They watch the show. They say: That is a pretty interesting point of view. That happens to be what the official Government point of view is. I wonder what the other side of the story is.

You have a right to ask that question. But what if it wasn't disclosed? What if what you thought was a news story turned out to be an ad, propaganda? That is a deception. It is a deception Senator BYRD is trying to end.

We sent the General Accounting Office out and we said: Take a look at two or three Government agencies in the Bush administration. See how they are using these videotapes. According to the GAO, the Office of National Drug Control Policy violated the publicity and propaganda prohibition in our law when it produced and distributed fake news stories called video news releases as part of its National Youth Anti-Drug Media Campaign. There is nothing wrong with fighting drugs.

We want to protect our children from that possibility. We want to end the scourge of drug abuse in America. But be honest about it. If it is a Government-produced program, then identify it. That is all Senators BYRD and LAUTENBERG say in their amendment. In a separate report, the GAO found that the Centers for Medicare and Medicaid Services violated publicity and propaganda prohibition by sending out more fake news stories about the benefits of the new prescription drug law for seniors. I was on the Senate floor when that was debated. There are pros and cons—people who are against it and who are for it. There are two sides to the story. Here came the official Government press release suggesting: Here are the facts for you, Mr. and Mrs. America. It turns out they didn't identify that that official news release came from an agency of the Bush administration.

They used phony reporters, phony news stories, and they told the viewers certain things they hoped they would believe. It turns out they were deceiving the American people.

Remember the case of Armstrong Williams? Interesting fellow. He was hired by the Federal Department of Education to promote the new No Child Left Behind law on his nationally syndicated television show and urged other journalists to do the same. We paid him taxpayer dollars of $240,000 to go on his talk show and say nice things about the Bush administration's No Child Left Behind law. Well, is that fair? Is that where you want to spend your tax dollars? Would it not have been worth a few bucks to put the money into the classroom for children, instead of putting on contract this man who never disclosed his conflict of interest and went about talking on his syndicated TV show as if he were an objective judge? He was so embarrassed by this that the Department stopped paying him and he issued something of an apology. The fact is, he used our Federal taxpayer dollars as an incentive to promote a point of view and didn't tell the American people, deceiving them in the process.

The Social Security Administration has gone through the same thing when it comes to the President's privatization plan. They will be producing these fake news stories and video press releases that mislead people about the nature of the challenge of the problem.

I have an example. One of the things that went out in the Social Security Administration's phony news story was the following statement: ''In 2041, the Social Security trust funds will be exhausted.'' That was put out as an official Government statement—not identified but sent out. It turns out it is not true. In 2041, the Social Security trust fund will not be exhausted. If we don't touch the Social Security trust fund, it will make every single payment to every single retiree, every single month of every single year until 2041. Then if we do nothing to change it after 36 years, it will continue to pay up to 75 to 80 percent. The trust fund is not going to be exhausted. That is a misstatement put out by this administration without identifying the fact that they are trying to promote a point of view which, sadly, is not correct and not honest.

So what Senator BYRD said is simple. If you want to put out something as a Federal Government agency, trust the American people. Tell them who you are. Let them decide whether it is worth believing. Don't pull the wool over their eyes. America is entitled to hear both sides of the story. We are entitled to know what is fact, what is fiction, what is basically news, and what is opinion. I think we can trust the American people to make that judgment. If Members of the Senate cannot trust the American people to make a judgment, how do they submit their own names for election? That is what we do regularly in an election year. I trust their judgment. I trust Senator BYRD's amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I appreciate very much the Senator from West Virginia offering the amendment and bringing this issue to the attention of the Senate and making the suggestion that is included in this amendment, which would ''prohibit the use of funds by any Federal agency to produce a prepackaged news story without including in such a story notification for the audience that the story was prepared or funded by a Federal agency.''

That is what the amendment says the purpose is, and that looks totally OK to me—harmless, no reason we should not support it. Then if you read down in the body of the amendment itself as to what it actually would provide in law, it says:

None of the funds provided in this act or any other act may be used by a Federal agency to produce any prepackaged news story, unless the story includes a clear notification to the audience that the story was prepared or funded by that Federal agency.

This creates a new obligation—not one that is enforced now by the FCC, not one that is embraced by Members of Congress or Senators when they send news releases out to news organizations about their activities or their views on a subject, it includes an obligation on anyone sending such a news story or statement or video release to communicate to the audience—the person looking at the television show or listening to the radio or reading the newspaper—that it is prepared by a Federal agency, or it uses funds to prepare it that are given to a Federal agency. It creates a new requirement, one that is almost impossible to meet.

Think about it. When we send a news release to a newspaper back home, we don't send it to all of the readers or subscribers of that newspaper. We send it to the newspaper, the address, the name of the newspaper in the town where it does business. So that is the defect in the amendment. That is why Senator BOND, speaking as chairman of the subcommittee that has jurisdiction over the funding and the laws under the jurisdiction of the subcommittee that would be involved and affected by

this, spoke against the amendment. That is why the Senate should not adopt the amendment.

We all agree you need to include a disclaimer. We have to do that and we do that. Federal agencies do that. We cannot make the news editor or the producer of the news show include the disclaimer in the broadcast though. Nor should we be held responsible personally or criticized if that news agency didn't disclaim or print or announce where they got the news story. That is an entirely different obligation and one that the FCC will enforce now and that we all support.

So what I am suggesting is that these are great speeches. This is a good political issue—to accuse the administration of trying to fool the American people by creating the impression that some of their news stories that are produced for the news media are produced by them and not the radio station or the television station or the newspaper that published it or broadcasted it. That is nothing new. But it is not up to the agency or the person who writes the story to communicate it to the audience.

That is the problem. We cannot support it. So it would be my intention to move to table the amendment because of that—not because it is not motivated by the right reasons or doesn't carry with it the sentiment that is appropriate. Of course, it does. But the wording of the amendment itself—not just the purpose of the amendment—is defective in that it imposes an obligation that should not be imposed on Federal agencies, the Government, or individual Members of Congress.

I am hopeful that—and I am sure the Senator from West Virginia will, if he can—the Senator will modify his amendment so it can be accepted. But if that cannot be done, I am prepared to move to table the amendment. I will not do that and cut off the right of any other person to talk about the subject.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I thank the distinguished Senator for his willingness to not move to table at this point. I hope we can take a little time and see if we might reach a meeting of the minds on language that might accomplish the purposes that we hoped to accomplish.

For that reason, 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. DORGAN. 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. DORGAN. Mr. President, I wonder if I might ask my colleague, the chairman of the committee, my understanding is the pending amendment is the Byrd amendment. But I heard my colleague Senator BYRD indicate he was trying to see whether there was some language that could be changed so this amendment would be acceptable. I have an amendment I had previously announced I would like to offer. It is an amendment dealing with the independent counsel expenditure of $21 million. I twice before mentioned this.

I ask the Senator from Mississippi whether it would be appropriate at this point to offer an amendment. My understanding is we would have to set aside the Byrd amendment to do so. I ask the chairman and also Senator BYRD whether that is possible at this moment.

Mr. COCHRAN. Mr. President, I have no objection.

Mr. BYRD. Mr. President, I have no objection. We can reach an understanding if I am unable to come up with language that is capable of being a workable and effective compromise that we might go ahead and have a vote on the Byrd amendment. Might we have a time limit on the Senator's proposal?

Mr. DORGAN. I will be mercifully brief. This is not an amendment that will take a long time to explain, and I do not intend to delay the proceedings of the Senate at all.

AMENDMENT NO. 399

Mr. DORGAN. Mr. President, with that in mind and with the cooperation of the Senator from Mississippi, the chairman of the committee, and my colleague Senator BYRD, as well, I offer an amendment on behalf of myself and Senator DURBIN has asked to be a cosponsor as well. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself and Mr. DURBIN, proposes an amendment numbered 399.

Mr. DORGAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To prohibit the continuation of the independent counsel investigation of Henry Cisneros past June 1, 2005 and request an accounting of costs from GAO)

At the end of the bill, add the following:

SEC. ___. (a) None of the funds appropriated or made available in this Act or any other Act may be used to fund the independent counsel investigation of Henry Cisneros after June 1, 2005.

(b) Not later than July 1, 2005, the Government Accountability Office shall provide the Committee on Appropriations of each House with a detailed accounting of the costs associated with the independent counsel investigation of Henry Cisneros.

Mr. DORGAN. Mr. President, this matter deals with something I was quite surprised to read about, frankly, in the newspaper, and I have since done some research about it. It was a rather lengthy newspaper article disclosing that an independent counsel who had been appointed 10 years ago in 1995, a Mr. David Barrett, was still in business and was involved in an investigation that has now cost the American taxpayers $21 million.

That was an investigation dealing with a Cabinet Secretary who was alleged to have lied, I believe, to the FBI, to authorities, about a payment he gave to a mistress. So an independent counsel was impaneled and began investigating that charge.

That independent counsel has been working for some 10 years, in fact. But the Cabinet officer who was the subject of the investigation pled guilty in 1999. That was 6 years ago. That Cabinet officer was also subsequently pardoned in the year 2001.

In the most recent 6-month report, the independent counsel who was appointed for investigating this transgression is still in business, and had spent $1.26 million in just that period. And the costs are trending upward, 10 years after he started, 6 years after the subject pled guilty, and 4 years after the subject was pardoned. It is unbelievable.

I do not know anything about the case. I do not really know the Cabinet official in question. I guess I met him some years ago. But this is not about that official any longer. He has pled guilty, been pardoned, and here we are years later with an independent counsel's office still spending money.

I quote Judge Stanley Sporkin, the presiding judge over Mr. Cisneros' trial:

The problem with this case is that it took too long to develop and much too long to bring to judgment day . . . [the matter] should have been resolved a long time ago, perhaps even years ago.

That was a quote from 1999. It is now 2005. The independent counsel is still spending money.

David Barrett, the independent counsel, said in 1999:

We are just glad to have this over and done with. That was following the plea agreement of Mr. Cisneros. Here it is 6 years later and the independent counsel is still in business.

Mr. Barrett said in July 2001:

I want to conclude this investigation as soon as possible.

It is now 4 years later, with the counsel spending $1.26 million in the last 6 months.

The three-judge panel that is providing oversight to the independent counsel said:

Whether a cost-benefit analysis at this point would support Mr. Barrett's effort is a question to which I have no answer.

Judge Cudahy, a member of the three-judge oversight panel said:

Mr. Barrett can go on forever. A great deal of time has elapsed and a lot of money spent in pursuing charges that on their face do not seem of overwhelming complexity.

Again, this is someone who is accused of lying to the FBI about paying money to a mistress. In the year 1995, the investigation began with Mr. Barrett and the independent counsel. In

1999, the individual pled guilty. In the year 2001, the individual was pardoned. And the independent counsel is still in business spending money. What on Earth is going on?

A former Federal prosecutor following the plea agreement, Lawrence Barcella, said this:

This is a classic example of why this independent counsel statute was a problem. You give this person all the resources to go after one person, and the first thing that is lost is perspective.

Joseph DiGenova, a Republican lawyer and former independent counsel himself, said in the April 1, 2005, Washington Post:

If this does not prove [the independent counsel's] worthlessness as a governmental entity, I don't know what does.

I do not come here as a partisan, a member of a political party. I come here as someone outraged to wake up in the morning and read a report about an independent counsel impaneled 10 years ago to investigate a subject who pled guilty 6 years ago and was pardoned 4 years ago, and the independent counsel is still spending the taxpayers' money, $1.26 million over the last 6 months.

My amendment is painfully simple. I propose we stop the spending on June 1 and tell this independent counsel: Finish your report, finish up, move on, and give the taxpayers a break.

That is what the amendment is. It is very simple. I hope it might be considered and supported by my colleagues.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 430, AS MODIFIED

Mr. BYRD. Mr. President, I have a proposed modification to the amendment which I have discussed with the distinguished manager of the bill, the chairman of the committee, Mr. COCHRAN.

I send the modification to the desk and ask that it be stated by the clerk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 430, as modified:

At the appropriate place, insert the following:

SEC. ____. Unless otherwise authorized by existing law, none of the funds provided in this Act or any other Act may be used by a Federal agency to produce any prepackaged news story unless the story includes a clear notification within the text or audio of the prepackaged news that the prepackaged news story was prepared or funded by that Federal agency.

The PRESIDING OFFICER. Is there objection to the modification of the amendment at this time?

Without objection, the amendment is so modified.

Mr. BYRD. Mr. President, I am prepared now to go to a vote, if the distinguished chairman is also prepared. And I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, may I just be sure that we are clear on this language.

I understand that the language as read by the clerk is agreed to on both sides.

Mr. COCHRAN. Mr. President, we have no objection to the modification.

The PRESIDING OFFICER. The amendment has been so modified. The question is on agreeing to the amendment, as modified. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Oklahoma (Mr. INHOFE).

Mr. DURBIN. I announce that the Senator from Maryland (Mr. SARBANES) is necessarily absent.

The PRESIDING OFFICER (Mr. CORNYN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 95 Leg.]

YEAS—98

Akaka	Dodd	Martinez
Alexander	Dole	McCain
Allard	Domenici	McConnell
Allen	Dorgan	Mikulski
Baucus	Durbin	Murkowski
Bayh	Ensign	Murray
Bennett	Enzi	Nelson (FL)
Biden	Feingold	Nelson (NE)
Bingaman	Feinstein	Obama
Bond	Frist	Pryor
Boxer	Graham	Reed
Brownback	Grassley	Reid
Bunning	Gregg	Roberts
Burns	Hagel	Rockefeller
Burr	Harkin	Salazar
Byrd	Hatch	Santorum
Cantwell	Hutchison	Schumer
Carper	Inouye	Sessions
Chafee	Isakson	Shelby
Chambliss	Jeffords	Smith
Clinton	Johnson	Snowe
Coburn	Kennedy	Specter
Cochran	Kerry	Stabenow
Coleman	Kohl	Stevens
Collins	Kyl	Sununu
Conrad	Landrieu	Talent
Cornyn	Lautenberg	Thomas
Corzine	Leahy	Thune
Craig	Levin	Vitter
Crapo	Lieberman	Voinovich
Dayton	Lincoln	Warner
DeMint	Lott	Wyden
DeWine	Lugar	

NOT VOTING—2

Inhofe	Sarbanes

The amendment (No. 430), as modified, was agreed to.

Mr. COCHRAN. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair wishes to clarify for the record that Senator MURRAY did not sign the cloture motion on amendment No. 387, and Senator LEAHY did sign that motion.

Mr. COCHRAN. Mr. President, what is the regular order?

The PRESIDING OFFICER. The pending amendment is amendment No. 399 by Senator DORGAN. There are other amendments which are, however, the regular order with respect to that amendment.

Mr. COCHRAN. The Dorgan amendment is the pending amendment.

The PRESIDING OFFICER. That is correct.

Mr. COCHRAN. I thank the Chair.

Mr. President, for the information of Senators, I have been asked and others have been asking the leadership about the intention of the Senate to proceed to votes on other amendments tonight. That is certainly up to the Senate. We are here open for business. We have an emergency supplemental appropriations bill pending before the Senate, and we need to move with dispatch to complete action on this bill to get the money to the Departments of Defense and State for accounts that have been depleted and that we need in the war on terror, that we need for our troops in Iraq and Afghanistan. So I hope we can proceed to further consideration of amendments that are pending. There are amendments pending. I hope Senators can cooperate with the managers and the leadership in moving this bill ahead.

I thank all Senators. 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. OBAMA. Mr. President, I ask that the quorum call be dispensed with.

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

AMENDMENT NO. 390

Mr. OBAMA. Mr. President, I call up amendment No. 390 and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendments? Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. OBAMA], for himself, Mr. GRAHAM, Mr. BINGAMAN and Mr. CORZINE, proposes an amendment numbered 390.

The amendment is as follows:

(Purpose: To provide meal and telephone benefits for members of the Armed Forces who are recuperating from injuries incurred on active duty in Operation Iraqi Freedom or Operation Enduring Freedom)

At the appropriate place, insert the following:

SEC. ___. BENEFITS FOR MEMBERS OF THE ARMED FORCES RECUPERATING FROM INJURIES INCURRED IN OPERATION IRAQI FREEDOM OR OPERATION ENDURING FREEDOM.

(a) PROHIBITION ON CHARGES FOR MEALS.—

(1) PROHIBITION.—A member of the Armed Forces entitled to a basic allowance for subsistence under section 402 of title 37, United

States Code, who is undergoing medical recuperation or therapy, or is otherwise in the status of ''medical hold'', in a military treatment facility for an injury, illness, or disease incurred or aggravated while on active duty in the Armed Forces in Operation Iraqi Freedom or Operation Enduring Freedom shall not, during any month in which so entitled, be required to pay any charge for meals provided such member by the military treatment facility.

(2) EFFECTIVE DATE.—The limitation in paragraph (1) shall take effect on January 1, 2005, and shall apply with respect to meals provided members of the Armed Forces as described in that paragraph on or after that date.

(b) TELEPHONE BENEFITS.—

(1) PROVISION OF ACCESS TO TELEPHONE SERVICE.—The Secretary of Defense shall provide each member of the Armed Forces who is undergoing in any month medical recuperation or therapy, or is otherwise in the status of ''medical hold'', in a military treatment facility for an injury, illness, or disease incurred or aggravated while on active duty in the Armed Forces in Operation Iraqi Freedom or Operation Enduring Freedom access to telephone service at or through such military treatment facility in an amount for such month equivalent to the amount specified in paragraph (2).

(2) MONTHLY AMOUNT OF ACCESS.—The amount of access to telephone service provided a member of the Armed Forces under paragraph (1) in a month shall be the number of calling minutes having a value equivalent to $40.

(3) ELIGIBILITY AT ANY TIME DURING MONTH.—A member of the Armed Forces who is eligible for the provision of telephone service under this subsection at any time during a month shall be provided access to such service during such month in accordance with that paragraph, regardless of the date of the month on which the member first becomes eligible for the provision of telephone service under this subsection.

(4) USE OF EXISTING RESOURCES.—In carrying out this subsection, the Secretary shall maximize the use of existing Department of Defense telecommunications programs and capabilities, private organizations, or other private entities offering free or reduced-cost telecommunications services.

(5) COMMENCEMENT.—

(A) IN GENERAL.—This subsection shall take effect on the first day of the first month beginning on or after the date of the enactment of this Act.

(B) EXPEDITED PROVISION OF ACCESS.—The Secretary shall commence the provision of access to telephone service under this subsection as soon as practicable after the date of the enactment of this Act.

(6) TERMINATION.—The Secretary shall cease the provision of access to telephone service under this subsection on the date this is 60 days after the later of—

(A) the date, as determined by the Secretary, on which Operation Enduring Freedom terminates; or

(B) the date, as so determined, on which Operation Iraqi Freedom terminates.

Mr. OBAMA. Mr. President, today I am offering an amendment to the fiscal year 2005 emergency supplemental which I am pleased to announce is being cosponsored by Senators CORZINE, BINGAMAN, and GRAHAM. This amendment would meet certain needs of our injured service members in recognition of the tremendous sacrifice they have made in defense of our country.

The other day I had the opportunity to visit some of our wounded heroes at Walter Reed Army Medical Center. I know many of you have made the same trip. I heard about their visits, but there is nothing that can fully prepare you for what you see when you take that first step into the physical therapy room.

These are kids in there, our kids, the ones we watched grow up, the ones we hoped would live lives that were happy, healthy, and safe. These kids left their homes and families for a dangerous place halfway around the world. After years of being protected by their parents, these kids risk their lives to protect us. Now some of them have come home from that war with scars that may change their lives forever, scars that may never heal. Yet they sit there in the hospital so full of hope and still so proud of their country. They are the best that America has to offer, and they deserve our highest respect, and they deserve our help.

Recently, I learned that some of our most severely wounded soldiers are being forced to pay for their own meals and their own phone calls while being treated in medical hospitals. Up until last year, there was a law on the books that prohibited soldiers from receiving both their basic subsistence allowance and free meals from the military. Basically, this law allowed the Government to charge our wounded heroes for food while they were recovering from their war injuries. Thankfully, this body acted to change this law in 2003 so that wounded soldiers would not have to pay for their meals. But we are dealing with a bureaucracy here and, as we know, nothing is ever simple in a bureaucracy. So now, because the Department of Defense does not consider getting physical rehabilitation or therapy services in a medical hospital as being hospitalized, there are wounded veterans who still do not qualify for the free meals other veterans receive. After 90 days, even those classified as hospitalized on an outpatient status lose their free meals as well.

Also, while our soldiers in the field qualify for free phone service, injured service men and women who may be hospitalized hundreds or thousands of miles from home do not receive this same benefit. For soldiers whose family members are not able to take off work and travel to a military hospital, hearing the familiar voice of mom or dad or husband or wife on the other side of the phone can make all the difference in the world. Yet right now our Government will not help pay for these calls, and it will not help pay for these meals.

Now, think about the sacrifices these young people have made for their country, many of them literally sacrificing life and in some cases limb. Now, at $8.30 a meal, they could end up with a $250 bill from the Government that sent them to war, and they could get that bill every single month. This is wrong, and we have a moral obligation to fix it. The amendment I am offering today will do this.

The amendment will expand the group of hospitalized soldiers who cannot be charged for their meals to include those service members undergoing medical recuperation, therapy, or otherwise on ''medical hold.'' The number of people affected by this amendment will be small. Only about 4,000 service members are estimated to fall under the category of non-hospitalized. The amendment is retroactive to January 1, 2005, in an effort to provide those injured service members who may have already received bills for their meals with some relief from these costs.

The amendment will also extend free phone service to those injured service members who are hospitalized or otherwise undergoing medical recuperation or therapy. I am very proud this amendment is supported by the American Legion, and I hope my colleagues will join them in that support. I ask all of my colleagues to join me in supporting this amendment. It should be something that is very simple for us to do. These are our children and they risked their lives for us. When they come home with injuries, we should be expected to provide them the best possible service and the best possible support. This is a small price to pay for those who have sacrificed so much for their country.

I want to mention and extend my thanks to the senior Senator from Alaska and my colleague from Mississippi for working with me on this issue. I am hoping that we can reach an agreement on this bill.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank the Senator for the explanation of his amendment. There is one thing, in looking at the amendment, that I am not sure of, and I am wondering if he could advise the Senate. Does the Senator have an estimate from anyone at the Department of Defense or in the Hospital Services Agency of the Department of Defense as to what the costs of the amendment would be during the balance of this fiscal year?

Mr. OBAMA. Yes, I do. DOD currently charges soldiers $8.30 per day for meals at the nondiscounted rate. So if all the eligible soldiers ate all of their meals at military facilities through the end of this fiscal year, the amendment would cost about $10.2 million. Now, that is probably a high estimate because my expectation would be these wounded soldiers would not be eating all of their meals at the hospital. So it would probably end up being lower, but the upper threshold would be $10.2 million.

Mr. COCHRAN. I thank the Senator. I think the Senator certainly hits upon a subject that we are very sensitive about at this time. We are following very closely the situation of the servicemen who are participating in the war against terror in Iraq, Afghanistan, and elsewhere. We are proud of

them. We are sorry that any of them have to be in the hospital or have to have access to services that are provided under the terms of this amendment. I would be happy to take the suggestion that is embodied in this amendment to the conference committee and try to work out an acceptable provision to be included in the final conference report and bring it back to the Senate.

So I recommend the Senate accept the amendment.

The PRESIDING OFFICER. Is there further debate?

The Senator from Illinois.

Mr. OBAMA. I thank my colleague, the Senator from Mississippi, for that offer, and I believe all of us feel the same way. These are the soldiers that are most severely wounded. We want to take the very best care of them, and I very much appreciate the consideration of the Senator from Mississippi.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 390) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. I thank the Senator and thank the Chair.

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. COCHRAN. 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. COCHRAN. Mr. President, I have requests to make, on behalf of the managers of the bill, with respect to amendments that have been cleared on both sides of the aisle.

AMENDMENT NO. 352

I now call up amendment No. 352, on behalf of Mr. SALAZAR, regarding the renaming of the death gratuity.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. SALAZAR, for himself and Mr. ALLARD, proposes an amendment numbered 352.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To rename the death gratuity payable for deaths of members of the Armed Forces as fallen hero compensation, and for other purposes)

On page 162, between lines 22 and 23, insert the following:

SEC. 1113. RENAMING OF DEATH GRATUITY PAYABLE FOR DEATHS OF MEMBERS OF THE ARMED FORCES AS FALLEN HERO COMPENSATION.

(a) IN GENERAL.—Subchapter II of chapter 75 of title 10, United States Code, is amended as follows:

(1) In section 1475(a), by striking ''have a death gratuity paid'' and inserting ''have fallen hero compensation paid''.

(2) In section 1476(a)—

(A) in paragraph (1), by striking ''a death gratuity'' and inserting ''fallen hero compensation''; and

(B) in paragraph (2), by striking ''A death gratuity'' and inserting ''Fallen hero compensation''.

(3) In section 1477(a), by striking ''A death gratuity'' and inserting ''Fallen hero compensation''.

(4) In section 1478(a), by striking ''The death gratuity'' and inserting ''The amount of fallen hero compensation''.

(5) In section 1479(1), by striking ''the death gratuity'' and inserting ''fallen hero compensation''.

(6) In section 1489—

(A) in subsection (a), by striking ''a gratuity'' in the matter preceding paragraph (1) and inserting ''fallen hero compensation''; and

(B) in subsection (b)(2), by inserting ''or other assistance'' after ''lesser death gratuity''.

(b) CLERICAL AMENDMENTS.—(1) Such subchapter is further amended by striking ''**Death gratuity:**'' each place it appears in the heading of sections 1475 through 1480 and 1489 and inserting ''**Fallen hero compensation:**''.

(2) The table of sections at the beginning of such subchapter is amended by striking ''Death gratuity:'' in the items relating to sections 1474 through 1480 and 1489 and inserting ''Fallen hero compensation:''.

(c) GENERAL REFERENCES.—Any reference to a death gratuity payable under subchapter II of chapter 75 of title 10, United States Code, in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to fallen hero compensation payable under such subchapter, as amended by this section.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 352) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 438

Mr. COCHRAN. I send to the desk an amendment on behalf of Mr. SPECTER that is technical in nature and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. SPECTER, proposes an amendment numbered 438.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To make a technical correction to cite the proper section intended to repeal the Department of Labor's transfer authority)

On page 220, line 12, strike ''Section 101'' and insert ''Section 102'' in lieu thereof.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 438) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 354

Mr. COCHRAN. Mr. President, I call up amendment No. 354 on behalf of Mr. GRAHAM regarding functions of the general counsel and judge advocate general of the Air Force.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. GRAHAM, proposes an amendment numbered 354.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To prohibit the implementation of certain orders and guidance on the functions and duties of the General Counsel and Judge Advocate General of the Air Force)

On page 169, between lines 8 and 9, insert the following:

PROHIBITION ON IMPLEMENTATION OF CERTAIN ORDERS AND GUIDANCE ON FUNCTIONS AND DUTIES OF GENERAL COUNSEL AND JUDGE ADVOCATE GENERAL OF THE AIR FORCE

SEC. 1122. No funds appropriated or otherwise made available by this Act, or any other Act, may be obligated or expended to implement or enforce either of the following:

(1) The order of the Secretary of the Air Force dated May 15, 2003, and entitled ''Functions and Duties of the General Counsel and the Judge Advocate General''.

(2) Any internal operating instruction or memorandum issued by the General Counsel of the Air Force in reliance upon the order referred to in paragraph (1).

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 354) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 393

Mr. COCHRAN. Mr. President, I now call up amendment No. 393, on behalf of Mr. KENNEDY, regarding the Veterans Health Administration facilities.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. KENNEDY, proposes an amendment numbered 393.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To clarify the limitation on the implementation of mission changes for specified Veterans Health Administration Facilities)

At the appropriate place, insert the following:

SEC. ___. IMPLEMENTATION OF MISSION CHANGES AT SPECIFIC VETERANS HEALTH ADMINISTRATION FACILITIES.

(a) IN GENERAL.—Section 414 of the Veterans Health Programs Improvement Act of 2004, is amended by adding at the end the following:

''(h) DEFINITION.—In this section, the term 'medical center' includes any outpatient clinic.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the Veterans Health Programs Improvement Act of 2004 (Public Law 108–422).

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 393) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 394

Mr. COCHRAN. Mr. President, I now call up amendment No. 394, on behalf of Mr. WARNER, regarding a reporting requirement.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. WARNER, proposes an amendment numbered 394.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To require a report on the re-use and redevelopment of military installations closed or realigned as part of the 2005 round of base closure and realignment)

On page 169, between lines 8 and 9, insert the following:

RE-USE AND REDEVELOPMENT OF CLOSED OR REALIGNED MILITARY INSTALLATIONS

SEC. 1122 (a) In order to assist communities with preparations for the results of the 2005 round of defense base closure and realignment, and consistent with assistance provided to communities by the Department of Defense in previous rounds of base closure and realignment, the Secretary of Defense shall, not later than July 15, 2005, submit to the congressional defense committees a report on the processes and policies of the Federal Government for disposal of property at military installations proposed to be closed or realigned as part of the 2005 round of base closure and realignment, and the assistance available to affected local communities for re-use and redevelopment decisions.

(b) The report under subsection (a) shall include—

(1) a description of the processes of the Federal Government for disposal of property at military installations proposed to be closed or realigned;

(2) a description of Federal Government policies for providing re-use and redevelopment assistance;

(3) a catalogue of community assistance programs that are provided by the Federal Government related to the re-use and redevelopment of closed or realigned military installations;

(4) a description of the services, policies, and resources of the Department of Defense that are available to assist communities affected by the closing or realignment of military installations as a result of the 2005 round of base closure and realignment;

(5) guidance to local communities on the establishment of local redevelopment authorities and the implementation of a base redevelopment plan; and

(6) a description of the policies and responsibilities of the Department of Defense related to environmental clean-up and restoration of property disposed by the Federal Government.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 394) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

Mr. REID. Is there a pending amendment?

The PRESIDING OFFICER. There are amendments pending.

Mr. REID. I ask unanimous consent that the amendments be set aside and I be allowed to offer an amendment.

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

AMENDMENT NO. 445

Mr. REID. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 445.

Mr. REID. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To achieve an acceleration and expansion of efforts to reconstruct and rehabilitate Iraq and to reduce the future risks to United States Armed Forces personnel and future costs to United States taxpayers, by ensuring that the people of Iraq and other nations to do their fair share to secure and rebuild Iraq)

On page 183, after line 23, add the following new section:

INTERNATIONAL EFFORTS FOR RECONSTRUCTION IN IRAQ

SEC. 2105. (a) Congress makes the following findings:

(1) The United States Armed Forces have borne the largest share of the burden for securing and stabilizing Iraq. Since the war's start, more than 500,000 United States military personnel have served in Iraq and, as of the date of the enactment of this Act, more than 130,000 such personnel are stationed in Iraq. Though the Department of Defense has kept statistics related to international troop contributions classified, it is estimated that all of the coalition partners combined have maintained a total force level in Iraq of only 25,000 troops since early 2003.

(2) United States taxpayers have borne the vast majority of the financial costs of securing and reconstructing Iraq. Prior to the date of the enactment of this Act, the United States appropriated more than $175,000,000,000 for military and reconstruction efforts in Iraq and, including the funds appropriated in this Act, the amount appropriated for such purposes increases to a total of more than $250,000,000,000.

(3) Of such total, Congress appropriated $2,475,000,000 in the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 559) (referred to in this section as ''Public Law 108–11'') and $18,439,000,000 in the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1209) (referred to in this section as ''Public Law 108–106'') under the heading ''IRAQ RELIEF AND RECONSTRUCTION FUND'' for humanitarian assistance and to carry out reconstruction and rehabilitation in Iraq.

(4) The Sixth Quarterly Report required by section 2207 of Public Law 108–106 (22 U.S.C. 2151 note), submitted by the Secretary of State in April 2005, stated that $12,038,000,000 of the $18,439,000,000 appropriated by Public Law 108–106 under the heading ''IRAQ RELIEF AND RECONSTRUCTION FUND'' had been obligated and that only $4,209,000,000, less than 25 percent of the total amount appropriated, had actually been spent.

(5) According to such report, the international community pledged more than $13,500,000,000 in foreign assistance to Iraq in the form of grants, loans, credits, and other assistance. While the report did not specify how much of the assistance is intended to be provided as loans, it is estimated that loans constitute as much as 80 percent of contributions pledged by other nations. The report further notes that, as of the date of the enactment of this Act, the international community has contributed only $2,700,000,000 out of the total pledged amount, falling far short of its commitments.

(6) Iraq has the second largest endowment of oil in the world and experts believe Iraq has the capacity to generate $30,000,000,000 to $40,000,000,000 per year in revenues from its oil industry. Prior to the launch of United States operations in Iraq, members of the Administration stated that profits from Iraq's oil industry would provide a substantial portion of the funds needed for the reconstruction and relief of Iraq and United Nations Security Council Resolution 1483 (2003) permitted the coalition to use oil reserves to finance long-term reconstruction projects in Iraq.

(7) Securing and rebuilding Iraq benefits the people of Iraq, the United States, and the world and all nations should do their fair share to achieve that outcome.

(b) Notwithstanding any other provision of law, not more than 50 percent of the previously appropriated Iraqi reconstruction funds that have not been obligated or expended prior to the date of the enactment of this Act may be obligated or expended, as the case may be, for Iraq reconstruction programs unless—

(1) the President certifies to Congress that all countries that pledged financial assistance at the Madrid International Conference on Reconstruction in Iraq or in other fora since March 2003, for the relief and reconstruction of Iraq, including grant aid, credits, and in-kind contributions, have fulfilled their commitments; or

(2) the President—

(A) certifies to Congress that the President or his representatives have made credible and good faith efforts to persuade other countries that made pledges of financial assistance at the Madrid International Conference on Reconstruction in Iraq or in other fora to fulfill their commitments;

(B) determines that, notwithstanding the efforts by United States troops and taxpayers on behalf of the people of Iraq and the failure of other countries to fulfill their commitments, revenues generated from the sale of Iraqi oil or other sources of revenue under the control of the Government of Iraq may not be used to reimburse the Government of the United States for the obligation and expenditure of a significant portion of the remaining previously appropriated Iraqi reconstruction funds;

(C) determines that, notwithstanding the failure of other countries to fulfill their commitments as described in subparagraph (A) and that revenues generated from the sale of Iraqi oil or other sources of revenue under the control of the government of Iraq shall not be used to reimburse the United States government as described in subparagraph (B), the obligation and expenditure of remaining previously appropriated Iraqi reconstruction funds is in the national security interests of the United States; and

(D) submits to Congress a written notification of the determinations made under this paragraph, including a detailed justification for such determinations, and a description of the actions undertaken by the President or other official of the United States to convince other countries to fulfill their commitments described in subparagraph (A).

(c) This section may not be superseded, modified, or repealed except pursuant to a provision of law that makes specific reference to this section.

(d) In this section:

(1) The term ''previously appropriated Iraqi reconstruction funds'' means the aggregate amount appropriated or otherwise made available in chapter 2 of title II of Public Law 108–106 under the heading ''IRAQ RELIEF AND RECONSTRUCTION FUND'' or under title I of Public Law 108–11 under the heading ''IRAQ RELIEF AND RECONSTRUCTION FUND''.

(2)(A) The term ''Iraq reconstruction programs'' means programs to address the infrastructure needs of Iraq, including infrastructure relating to electricity, oil production, public works, water resources, transportation and telecommunications, housing and construction, health care, and private sector development.

(B) The term does not include programs to fund military activities (including the establishment of national security forces or the Commanders' Emergency Response Programs), public safety (including border enforcement, police, fire, and customs), and justice and civil society development.

AMENDMENT NO. 395

Mr. LEAHY. Mr. President, I rise in support of amendment 395. There are many Members on both sides of the aisle with strong objections to the REAL ID Act. Those of us who value our Nation's historic commitment to asylum do not want to see severe restrictions placed on the ability of asylum seekers to obtain refuge here. Those of us who value states rights side with the National Governors Association, the National Conference of State Legislatures, and the Council of State Governments in opposing the imposition of unworkable Federal mandates on State drivers license policies. Those of us who value the environment and the rule of law object to requiring the DHS Secretary to waive all laws, environmental or otherwise, that may get in the way of the construction of border fences, and forbidding judicial review of the Secretary's actions.

To include the REAL ID Act in the conference report for this supplemental would also deprive the Judiciary Committee and the Senate as a whole of the opportunity to consider and review these wide-ranging provisions.

The majority leader has indicated in recent days that the Senate will be considering immigration reform this year. The provisions in the REAL ID Act should be considered at that time and in conjunction with a broader debate about immigration. They should not be forced upon the Senate by the leadership of the other body.

I urge my colleagues to vote in favor of this resolution, which I am proud to cosponsor with Senators FEINSTEIN, BROWNBACK, ALEXANDER, and many others.

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

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

MORNING BUSINESS

Mr. FRIST. I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

BURMA

Mr. MCCONNELL. Madam President, the United Nations Human Rights Commission adopted a resolution expressing concern with the ''ongoing systematic violation of human rights'' of the Burmese people. These violations include: extrajudicial killings, rape and other forms of violence persistently carried out by members of the armed forces, the continued use of torture, political arrests, forced and child labor, and systematic use of child soldiers.

While the Commission's action is welcomed, it is not enough. The United Nations Security Council must discuss and debate the immediate regional threats that country poses to its neighbors—whether from illicit narcotics, HIV/AIDS, trafficked and internally displaced persons, or refugees.

I am dismayed that both China and India reportedly objected to an ''unbalanced approach'' in the Commission's action against Burma.

In my view, India can—and should—play a catalytic role in fostering change in Burma. I would remind India that such objections serve only to tarnish its image as the world's largest democracy, and send the wrong message to Daw Aung San Suu Kyi, Nobel Peace Laureate and recipient of India's Jawaharlal Nehru Award for International Understanding. India should, as it did in the past, stand firmly with Burma's democrats and work to foster reconciliation between the National League for Democracy, ethnic nationalities and the illegal military junta.

On a separate matter, I want to recognize Ms. Cindy Chang in the State Department's Bureau of Legislative Affairs. Cindy works closely with the State/Foreign Operations Subcommittee, which I chair, and I want the Secretary of State to know how ably Cindy represents that Department's—and the President's—interests on the Hill. She is a star in that Bureau.

NATIONAL ASSOCIATED ALUMNAE AND ALUMNI OF THE SACRED HEART

Mr. DURBIN. Madam President, I rise today to recognize the National Associated Alumnae and Alumni of the Sacred Heart during their 35th biennial conference.

The theme of the conference is ''St. Madeleine Sophie's vision of service—living our legacy,'' and a panel discussion will be hosted by Barat College. St. Madeleine Sophie Barat was the foundress of the Society of the Sacred Heart, and she still is a true inspiration to all who seek to follow the call of service.

The late Senator Paul Simon was my mentor when I began my political career in downstate Illinois. His wife, Jean Hurley Simon, graduated from Barat College in 1944. Since I first met Jean, I have had a special admiration for those educated in the Sacred Heart tradition.

The Associated Alumnae and Alumni of the Sacred Heart includes over 51,000 women and men educated in the Sacred Heart schools. Recently, Sacred Heart alumni have led efforts to provide relief for people in Indonesia effected by the devastating tsunami. Funds raised by Sacred Heart alumni have allowed for much-needed health and education programs in the region, including interfaith projects to house and lead activities for orphaned children.

Like Senator Simon before me, I have strongly supported higher education initiatives and access to professional development training for our elementary and secondary teachers. After all, teachers have the ability to influence, impact, and shape the citizens of tomorrow.

I know that my fellow Senators will join me in commending the Sacred

Heart alumni for their legacy of service. I am confident that this proud history and tradition will continue in the spirit of St. Madeleine Sophie for years to come.

PROTECT OUR COMMUNITIES, NOT THE GUN INDUSTRY

Mr. LEVIN. Madam President, it has been reported that the Senate may consider the misnamed Protection of Lawful Commerce in Arms Act in the near future. I was pleased that this legislation was defeated during the 108th Congress, and I continue to oppose its passage.

This bill would rewrite well-accepted principles of liability law, providing the gun industry legal protections not enjoyed by other industries. It would grant broad immunity from liability even in cases where gross negligence or recklessness led to someone being injured or killed. Enactment of this special interest legislation for the gun industry would also lead to the termination of a wide range of pending and prospective civil cases, depriving gun violence victims with legitimate cases of their day in court.

It would be all the more irresponsible for the Senate to pass the gun industry immunity legislation while also continuing to ignore many gun safety issues that are critically important to the law enforcement community. Recent editorials in major newspapers around the country have highlighted Congress' inability to enact common sense gun safety legislation. An editorial from Monday's edition of the Los Angeles Times stated: Over the last four years, the president and his congressional allies have repudiated or quietly eviscerated key gun laws and regulations. Now they are poised to shield firearms makers and sellers from nearly all damage claims when their products kill or maim.

Thus far, Congress has failed to act to reauthorize the assault weapons ban that expired on September 13, 2004. This inaction allowed criminals and terrorists potential easy access to many of the most powerful and deadly firearms manufactured. In addition, Congress has failed to close a loophole that allows individuals on terrorist watch lists to buy these weapons and has failed to pass legislation that would, at the very least, require a background check for individuals attempting to buy the previously banned assault weapons at gun shows.

Rather than considering a bill to protect members of the gun industry from liability, we should help protect our families and communities by addressing the loopholes that potentially allow known and suspected terrorists to legally purchase military style firearms within our own borders. I again urge my colleagues to take up and pass common sense gun safety legislation that will address these loopholes and the threats they pose.

I ask unanimous consent that the April 11, 2005 Los Angeles Times editorial titled ''Remember Gun Control?'' be printed in the CONGRESSIONAL RECORD.

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

[From the Los Angeles Times, Apr. 11, 2005]

REMEMBER GUN CONTROL?

After four years of George W. Bush, the notions that some people might be too dangerous or unstable to trust with a firearm or that assault weapons do not belong in civilized society are deader than a wild turkey in hunting season.

During Bush's first campaign, a National Rifle Assn. leader quipped, ''If we win, we'll have a president where we work out of their office.'' How right he was.

Over the last four years, the president and his congressional allies have repudiated or quietly eviscerated key gun laws and regulations. Now they are poised to shield firearms makers and sellers from nearly all damage claims when their products kill or maim. Not only is this a gift no other industry enjoys, it's a truly bad idea that even gun owners have reason to oppose.

Last year, Republican congressional leaders simply ran out the clock on the 10-year-old federal assault gun ban, refusing to even call a vote on renewing it despite steady popular support for the law. Bush, who once claimed that he supported the ban, refused to make so much as a phone call to his House or Senate allies to keep it alive. With it died the ban on domestically made ammunition clips with more than 10 rounds, a boon for any disgruntled employee, terrorist or high school student who wants to mow down a crowd. The president also signed a bill that requires the destruction within 24 hours of all records from background checks of gun buyers. And Congress required the Bureau of Alcohol, Tobacco, Firearms and Explosives to keep secret the data that tracks weapons used in crimes.

Meanwhile, a Government Accountability Office study examining FBI and state background-check records found that 35 people whose names appeared on terrorism watch lists were able to buy a gun. Incredibly, a would-be buyer's presence on a watch list does not disqualify him or her from buying a firearm. Because background-check data now must be promptly destroyed, it is impossible to know how many more terrorism suspects might be lawfully armed.

The immunity bill, introduced by Sen. Larry E. Craig (R-Idaho) and Rep. Cliff Stearns (R-Fla.), would protect gun manufacturers and sellers from damage suits by victims of gun violence. It would even block injury suits from gun owners. That means gun owners can't sue if poorly made handguns explode in their hands or fire unintentionally. In many instances, the bill would shield gun dealers who allow criminals to buy a firearm, by severely weakening the ATF's ability to shut down unscrupulous dealers.

This reckless measure, long on the NRA's wish list, has come before Congress before, but enough lawmakers balked. This time, emboldened by last November's GOP victories, there looks to be less resistance. Senate Majority Leader Bill Frist (R-Tenn.) says he's ready to call for a floor vote any time. Unless voters speak up.

TRIBUTE TO DR. MAURICE HILLEMAN

Mr. BAUCUS. Madam President, I rise today to memorialize the life and accomplishments of Dr. Maurice Hilleman, a renowned microbiologist and native son of Montana.

Dr. Maurice R. Hilleman dedicated his life to developing vaccines for mumps, measles, chickenpox, pneumonia, meningitis and other diseases, saving tens of millions of lives. He died on Monday at a hospital in Philadelphia at the age of 85.

Raised on a farm in Montana, Dr. Hilleman credited much of his success to his boyhood work with chickens, whose eggs form the foundation of so many vaccines. Much of modern preventive medicine is based on Dr. Hilleman's work, though he never received the public recognition of Salk, Sabin or Pasteur. He is credited with having developed more human and animal vaccines than any other scientist, helping to extend human life expectancy and improving the economies of many countries.

According to two medical leaders, Dr. Anthony S. Fauci, director of the National Institute of Allergy and Infectious Diseases, and Dr. Paul A. Offit, chief of infectious diseases at Children's Hospital in Philadelphia, Dr. Hilleman probably saved more lives than any other scientist in the 20th century. ''The scientific quality and quantity of what he did was amazing,'' Dr. Fauci is quoted as saying. ''Just one of his accomplishments would be enough to have made for a great scientific career. One can say without hyperbole that Maurice changed the world with his extraordinary contributions in so many disciplines: virology, epidemiology, immunology, cancer research and vaccinology.''

Dr. Hilleman developed 8 of the 14 vaccines routinely recommended: measles, mumps, hepatitis A, hepatitis B, chickenpox, meningitis, pneumonia and Haemophilus influenzae bacteria. He also developed the first generation of a vaccine against rubella, also known as German measles. The vaccines have virtually vanquished many of the once common childhood diseases in developed countries.

In addition, Dr. Hilleman overcame immunological obstacles to combine vaccines so that one shot could protect against several diseases, like the MMR vaccine for measles, mumps and rubella. He developed about 40 experimental and licensed animal and human vaccines, mostly with his team from Merck of Whitehouse Station, NJ His role in their development included lab work as well as scientific and administrative leadership.

And as a sign of his humility, Dr. Hilleman routinely credited others for their roles in advances, according to his colleagues.

Vaccine development is complex, requiring an artistry to safely produce large amounts of weakened live or dead microorganisms. Dr. Offit once said, ''Maurice was that artist: no one had the green thumb of mass production that he had.'' The hepatitis B vaccine, licensed in 1981, is credited as the first

to prevent a human cancer: a liver cancer, known as a hepatoma, that can develop as a complication of infection from the hepatitis B virus.

One of Dr. Hilleman's goals was to develop the first licensed vaccine against any viral cancer. He achieved it in the early 1970s, developing a vaccine to prevent Marek's disease, a lymphoma cancer of chickens caused by a member of the herpes virus family. Preventing the disease helped revolutionize the economics of the poultry industry. Dr. Hilleman's vaccines have also prevented deafness, blindness and other permanent disabilities among millions of people, a point made in 1988 when President Ronald Reagan presented him with the National Medal of Science, the Nation's highest scientific honor.

Because scientific knowledge about viruses was so limited when he began his career, Dr. Hilleman said that trial and error, sound judgment and luck drove much of his research. Luck played a major role in the discovery of adenoviruses. Dr. Hilleman flew a team to Missouri to collect specimens from troops suffering from influenza. But by the time his team arrived, influenza had died out. Fearing that he would be fired for an expensive useless exercise, Dr. Hilleman seized on his observation of the occurrence of a fresh outbreak of a different disease. His team discovered three new types of adenoviruses among the troops.

In the early 1950s, he made a discovery that helps prevent influenza. He detected a pattern of genetic changes that the influenza virus undergoes as it mutates. The phenomenon is known as drift—minor changes—and shift—major changes. Vaccine manufacturers take account of drift in choosing the strains of influenza virus included in the vaccines that are freshly made each influenza season. Shifts can herald a large outbreak or pandemic of influenza, and Dr. Hilleman was the first to detect the shift that caused the 1957 Asian influenza pandemic. He read an article in the New York Times on April 17, 1957, about influenza among infants in Hong Kong—cases that had escaped detection from the worldwide influenza surveillance systems. At the time, he directed the central laboratory for worldwide military influenza surveillance and was sure that the cases represented the advent of an influenza pandemic. So he immediately sent for specimens from Hong Kong and helped isolate a new strain of influenza virus. He also demanded that breeders keep roosters that would otherwise have been slaughtered so they could fertilize enough eggs to prepare 40 million doses of influenza to protect Americans against the 1957 influenza strain.

Standing tall at six-foot-one and wearing reading glasses that rested on the tip of his nose, Dr. Hilleman described himself as a renegade. He often participated in scientific meetings, where he could be irascible while amusing his colleagues with profane asides. At one of many meetings with this physician-reporter, a Thanksgiving Day dinner during a conference at the World Health Organization in Geneva in the 1980s, Dr. Hilleman said he was driven by a goal to get rid of disease and by a belief that scientists had to serve society.

Maurice Ralph Hilleman was born on Aug. 30, 1919, in Miles City, MT. His mother and twin sister died during his birth. In 1937, he went to work in the local J. C. Penney's store where he helped cowpokes, as he described his customers, pick out chenille bathrobes for their girlfriends, and he was well on the way to a career in retailing until his oldest brother suggested that he go to college. After graduating from Montana State University in 1941, he received his Ph.D. in microbiology from the University of Chicago and then joined E. R. Squibb & Sons. There, he developed a vaccine against Japanese B encephalitis to protect American troops in the World War II Pacific offensive. In 1948, he moved to the Walter Reed Army Medical Center and stayed until 1957, when Vannevar Bush, then chairman of Merck and a former director of the Federal Office of Scientific Research and Development in World War II, persuaded him to direct a virus research program for the drug company.

After retiring as senior vice president for Merck research laboratories in 1984, Dr. Hilleman continued to work on vaccines, saying they were needed for at least 20 diseases, including AIDS. Dr. Hilleman is survived by his wife, Lorraine, a retired nurse; two daughters, Jeryl Lynn of Palo Alto, CA., and Kirsten J. of New York City; two brothers, Victor, of Fontana, CA., and Norman, of Santa Barbara, CA.; and five grandchildren. His daughter Jeryl Lynn is at least in part responsible for the mumps vaccine. In 1963, when her salivary glands started to swell with the disease, Dr. Hilleman swabbed her throat and went on to isolate the virus. He then weakened it and within 4 years had produced the now-standard mumps vaccine. The weakened strain bears her name.

Mr. President, it is an honor for me to pay my respects to such a great and accomplished man as Dr. Maurice Hilleman. And it is an honor for me to call him a fellow Montanan.

ADDITIONAL STATEMENTS

100 YEARS OF EXEMPLARY SERVICE

• Mr. INOUYE. Mr. President, on April 15, the U.S. Army Corps of Engineers, Honolulu Engineer District, HED, will celebrate 100 years of exemplary service to Hawaii, the Pacific region, the U.S. military and the Nation.

For an entire century, the District has served with pride and distinction. I have personally witnessed their hard work and dedication to improve the lives of our fellow citizens in many ways. They have never failed to answer the call.

The District has had a significant impact on the ability of our servicemen and women to fight the global war on terror; it has bolstered the region's economy and worked to enhance the safety of communities in and about waterways and the functionability of the many major harbors in my home State of Hawaii. In everything they do they safeguard the environment.

From civil works projects navigation, flood control and shore protection to building and maintaining the infrastructure for our military personnel, the Honolulu District is proud of its service.

The U.S. Army Corps of Engineers' missions in the Pacific region have expanded exponentially since the unit's conception in 1905 when LT John Slattery was designated as Honolulu District Engineer on the Island of Oahu.

The mission of the Twelfth Lighthouse District was to design and construct lighthouses for navigation, acquire land for military fortifications, improve the harbors and expand the Corps' services to other Pacific islands.

In its first 100 years, the Honolulu District has supported the military in peace and in war, helped protect the island from enemies and forces of nature, protected the environment and wetlands, and added to Hawaii's economic growth.

HED's legacy includes: the creation of Sand Island; the acquisition of Fort DeRussy area in Waikiki; the expansion of Honolulu Harbor; the repair of Hickam, Wheeler and Pearl Harbor airfields after the December 1941 attack; the construction of the National Memorial Cemetery of the Pacific at Punchbowl, the Tripler Army Medical Center, the Hale Koa Hotel and numerous military and federal construction projects; and the creation of the Kaneohe-Kailua Dam, as well as a host of disaster mitigation and assistance measures.

At the beginning of the 20th century, HED constructed six deep-draft harbors on the five major Hawaiian Islands and three crucial lighthouses for navigation.

Under Slattery's command, the District began transforming the swampy coral reef used as a quarantine station in Honolulu Harbor into what is now known as Sand Island. Lt. Slattery's contributions are honored today with the Lt. John R. Slattery Bridge which connects Sand Island with the City of Honolulu.

He later purchased the 74-acre Fort DeRussy area in Waikiki for just $2,700 an acre for use as a military fortification. At the time, the land was little more than a swampy parcel. Today the area provides a valuable green oasis in the heart of Waikiki.

Throughout the 20th century, HED supported Oahu's defense by building a multitude of coastal fortifications including Pearl Harbor, Forts Ruger,

Armstrong, Weaver, Barrette and Kamehameha as well as Batteries Randolph, Williston, Hatch, and Harlow.

Changes in technology and the approach of World War I changed HED's missions. Batteries and forts were supplemented with artillery fire control and submarine mine defense systems.

As cars began replacing horse-drawn wagons, HED built new roads and tunnels to transport equipment and troops. The District enlarged Honolulu Harbor to 1,000 feet long and 800 feet wide—a critical project because the newly-created Panama Canal had transformed Honolulu into a major port-of-call for ships needing coal and supplies.

The District's role in the Pacific increased dramatically during World War II. At the height of the war, HED employed more than 26,000 people. Not only was the District creating the new airfield ferry routes and repairing the damaged airfields at Hickam, Wheeler and Pearl Harbor, but the District was also tasked with additional responsibilities beyond its normal realm.

The District was suddenly responsible for determining shipping priorities in the harbor; converting sugarcane and pineapple plantations to vegetable farms; organizing a rationing program for oil and other consumer goods; camouflaging equipment and landmarks; building trenches and air raid shelters; erecting radar stations and excavating extensive underground rooms and tunnels for ammunition storage.

Before war was declared, the District had been creating a new Airfield Ferry Route System. The original route from the Philippines, Marianas, Wake Island, Midway, Hawaii to California was considered vulnerable to Japanese attack. New air ferry routes to the east and south were necessary to the war effort and the military buildup in Australia.

Building seven runways and support facilities on small, remote islands presented a number of challenges involving materials, manpower and water shortages, communication, transportation and geographical topography. The southern route, from California, Hawaii, Christmas, Canton, Fiji, New Caledonia to Australia and the eastern route, from Christmas, Penrhyn, Aitutaki, Tongatabu, Norfolk to Sydney, were finished by the 1-year anniversary of the attack on Pearl Harbor—an impressive accomplishment by any standard.

When the war ended, HED had constructed 69 miles of runways and taxiways, and 2,700,000 square yards of aircraft parking area.

Although the District's workload diminished after the war, the post-war years were anything but quiet as HED continued to supply engineering troops overseas and to dispose of real estate on the islands.

The Corps was also busy with major endeavors including construction of Tripler Army Medical Center, the National Memorial Cemetery of the Pacific at Punchbowl, and flood control and shore protection projects critical to the safety and future enjoyment of many communities.

Tripler Army Medical Center, commonly known as the ''Pink Lady,'' was completed in 1948 at a cost of $40 million. The 14-story, 1,500-bed hospital was an extensive project featuring 12 separate buildings—each constructed separately to make the Medical Center earthquake-resistant. Today, Tripler continues serving military members and their families from around the Pacific, as well as Hawaii's veterans and military retirees.

During the 1960s and 1970s, new Federal policies further expanded HED's duties. The National Environmental Policy Act of 1969 required the Corps to prepare environmental impact statements, EIS, on all proposed federal actions affecting the environment. The Clean Water Act of 1977 brought changes to the Corps' regulatory mission and required the Corps to issue permits for all dredged or fill material. The Corps was now responsible for all the nation's water and wetlands—a scope that now stretches far beyond navigable waters. This began the Corps' mission as ''Stewards of the Environment.''

The 1970s were also a time of internal change for the District. In 1973, the functions of the Pacific Ocean Division and the Honolulu Engineer District were merged to form a single operating division. The Division moved from Fort Armstrong to its present location at Fort Shafter on Oahu.

Civil works and capital improvement programs expanded to Guam, American Samoa, Kwajalein and the Commonwealth of the Northern Mariana Islands. Main projects on Oahu included building military housing and improving facilities at Hickam AFB, Wheeler, Schofield, Aliamanu and Fort Shafter.

In 1973, HED began construction of the Hale Koa Military Rest and Recreational Hotel at Fort DeRussy in Waikiki. The original highrise hotel tower has 416 rooms, 15 floors and was built for $15.7 million.

Nearby Battery Randolph was transformed into the U.S. Army Museum. The second floor of the museum today houses the U.S. Army Corps of Engineers Pacific Regional Visitors Center.

The Corps' responsibilities were further expanded in 1980 with the addition of an Emergency Management Division. In July 2002, HED disaster recovery specialists provided support in the wake of Typhoon Chataan. Just 6 months later, HED responded swiftly in December 2002 when Pacific Ocean Division disaster recovery specialists were called upon and arrived 2 days after Super Typhoon Pongsona devastated Guam with 184-mph winds. Within 2 weeks, more than 100 members from all eight Corps of Engineers divisions were on the ground to execute a $20 million in disaster cleanup.

In the fall of 2004, HED sent emergency management teams and manpower to Florida, Louisiana, Alabama and South Carolina in response to the devastation by Hurricanes Ivan, Charley, and Frances.

HED today continues to serve a variety of missions in a region of 12 million square miles from Hawaii to Micronesia an area of operations spanning five time zones, the equator and the international dateline. This they have done with the utmost of professionalism, integrity and an unwavering commitment to service.

I am truly honored to have the Honolulu Engineer District in my home State. They serve as ''America's Engineers in the Pacific.'' I have no doubt that they will continue their service and legacy with pride and aloha for the next hundred years and beyond. Happy Birthday. Congratulations on a job well done. On behalf of a grateful Nation, thank you for your service.●

MR. RALPH DREES

● Mr. BUNNING. Mr. President, I pay tribute and congratulate Mr. Ralph Drees of Northern KY, who was recently honored with one of the ''Movers and Shakers'' awards for the Greater Cincinnati area. Mr. Drees' life accomplishments and dedication to Commonwealth of Kentucky have given me reason to be proud.

Mr. Drees was born in 1934 and grew up in Wilder, KY. After graduating from Newport Catholic High School in 1952, he was drafted and went on to serve in the Army Corps of Engineers. At the age of 23 he returned home to Kentucky to join his father and brother in the family business. This business, the Drees Company, has grown to become the largest privately held company within the greater Cincinnati area.

Throughout his life, Mr. Drees has always been active in civic affairs in Northern Kentucky. He's served as an Erlanger councilman, president of Home Builders Association of Northern Kentucky and member of the Northern Kentucky Area Planning Commission. In 1990, he was named the Northern Kentucky Chamber of Commerce's Business Person of the year.

The ''Movers and Shakers'' award of Northern Kentucky is an annual award presented to honor those within the Greater Cincinnati region who stand as an example for all. It is presented by the Kentucky Enquirer, the Sales and Marketing Council of Northern Kentucky, The Home Builders Association of Northern Kentucky and The Kentucky Post.

As a U.S. Senator from Kentucky, I appreciate the devotion Mr. Drees has shown over the years to the citizens of Kentucky. I commend his efforts and hope his example of dedication and hard work will serve as an inspiration to the entire State.●

HONORING DR. PATRICK J. SCHLOSS

• Mr. JOHNSON. Mr. President, I rise today to publicly recognize the inauguration of Dr. Patrick J. Schloss as the 15th President of Northern State University in Aberdeen, SD.

A dedicated scholar, diligent educator and attentive family man, Dr. Schloss certainly deserves this great honor and responsibility. After obtaining both his bachelors degree in special education and his masters degree in counseling from Illinois State University, Patrick went on to earn his doctorate in rehabilitation psychology from the University of Wisconsin.

Dr. Schloss is a man of great scholarship and knowledge. A prolific writer and frequent contributor to professional literature, his writings about special education methods relating to vocational education and community integration are studied in colleges and universities throughout the Nation.

Prior to joining the faculty of Bloomsburg University in Pennsylvania, Dr. Schloss held numerous administrative and academic positions at the University of Missouri and Pennsylvania State University. While at Bloomsburg, he served as assistant vice president and dean of graduate studies from 1994 until 2000, when he was appointed provost and vice president for academic affairs. Under Patrick's direction, Bloomsburg's enrollment not only increased 12 percent, but the university launched its undergraduate engineering and doctoral programs, as well.

In addition to his passion for education, Dr. Schloss served as president of the Pennsylvania Association of Graduate Schools, and also held board, committee, and task force appointments on behalf of the Council for Exceptional Children and the Association for Retarded Citizens.

It is an honor for me to share Dr. Schloss's accomplishments with my colleagues and to publicly commend him for his extraordinary academic career. Serving as president of Northern State University is an honor he richly deserves, and I am certain he will prove to be a tremendous asset to the university and the entire Aberdeen community. On behalf of all South Dakotans, I would like to congratulate Dr. Schloss and wish him all the best.•

HONORING THE SPEARFISH HIGH SCHOOL PARTICIPANTS IN THE ''WE THE PEOPLE'' COMPETITION

• Mr. JOHNSON. Mr. President, on April 30–May 2, 2005, more than 1,200 students from across the United States will visit Washington, DC, to compete in the national finals of We the People: The Citizen and the Constitution Program. This is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. Administered by the Center for Civic Education, the We the People program is funded by the U.S. Department of Education by act of Congress.

I am proud to announce that the class from Spearfish High School will represent the state of South Dakota in this national event. These young scholars have worked conscientiously to reach the national finals by participating at local and statewide competitions. As a result of their experience, they have gained a deep knowledge and understanding of the fundamental principles and values of our constitutional democracy.

The 3-day We the People national competition is modeled after hearings in the U.S. Congress. The hearings consist of oral presentations by high school students before a panel of adult judges on constitutional topics. The students are given an opportunity to demonstrate their knowledge while they evaluate, develop, and defend positions on relevant historical and contemporary issues. Their testimony is followed by a period of questioning by the judges, who probe the students' depth of understanding and ability to apply their constitutional knowledge.

The We the People program provides curricular materials at upper elementary, middle, and high school levels. The curriculum not only enhances students' understanding of the institutions of American constitutional democracy, it also helps them identify the contemporary relevance of the Constitution and Bill of Rights. Critical thinking exercises, problem-solving activities, and cooperative learning techniques help develop participatory skills necessary for students to become active, responsible citizens.

The class from Spearfish High School is currently preparing for their participation in the national competition in Washington, DC. It is inspiring to see these young people advocate the fundamental ideals and principles of our Government, ideas that identify us as a people and bind us together as a nation. It is important for future generations to understand these values and principles that we hold as standards in our endeavor to preserve and realize the promise of our constitutional democracy. Congratulations to Bethany Baker, Brandon Bentley, Hannah Bucher, Meghan Byrum, Joe Cooch, Jenna Eddy, Elise Foltz, Amber Ginter, Meggan Joachim, Frankelly Martinez Garcia, Lauren Meyers, Jason Nies, Emily Oldekamp, Aly Oswald, Jessica Richey, Lauren Schempf, Lindsay Senden, Janette Sigle, Nick Smith, Brent Swisher, Calli Tetrault, Kaysie Tope, and their teacher, Patrick Gainey. I wish these young constitutional scholars the very best at the We the People national finals.•

RECOGNIZING THE 50TH ANNIVERSARY OF THE DENVER REGIONAL COUNCIL OF GOVERNMENTS (DRCOG)

• Mr. SALAZAR. Mr. President, I rise today to recognize a model of intergovernmental cooperation from my home State of Colorado: the Denver Regional Council of Governments, known as DRCOG.

DRCOG is a nonprofit, cooperative effort of the 51 county and municipal governments in the Denver metropolitan area, representing two and a half million residents, with another million expected by 2030, across eight counties: Adams, Arapahoe, Boulder, Broomfield, Clear Creek, Denver, Douglas, Gilpin and Jefferson. It was founded 50 years ago as the Inter-County Regional Planning Association, conceived as a place where local officials could work cooperatively to solve the region's problems. And it is a voluntary organization—the members are choosing to work together for mutual benefit.

DRCOG champions efforts in a number of areas, including services for seniors, transportation and commuter solutions, public safety training and testing, where it has repeatedly benefited from the highly successful COPS Program, as well as regional growth and water quality plans. It has focused on long-term plans to solve these issues, including developing understandable, fair and objective project selection processes for regional projects eligible for Federal, State and local funds and a long-term regional growth plan.

Last night was DRCOG's Annual Awards Dinner, where it will hand out a number of awards, including the John V. Christensen Memorial Award. Named after one of DRCOG's cofounders, the late John Christensen was a county commissioner for Arapahoe County and one of the Denver area's biggest proponents of cooperative problem solving for the metro area. The Christensen award will go tonight to a regionalist who has displayed outstanding commitment to working for the region's common good. Past award recipients have included Colorado State legislators, mayors, county commissioners, as well as county planners, regional leaders, and others during the award's 32-year history.

DRCOG has strived to speak, as its motto says, ''With One Voice.'' Its members have eschewed partisanship and ideological bickering to focus on a single goal: Cooperative problem solving that benefits all of the people of the Denver metro area. By coming to the table with the commitment to work towards a common solution, DRCOG has exemplified what we seek in our leaders: Thoughtful consideration and deliberate action.

DRCOG is exactly the kind of effort to which we all aspire, a place for ideas and insight, for working in a nonpartisan fashion across jurisdictional lines. I applaud the accomplishments and efforts of the Denver Regional Council of Governments and look forward to its continued success.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to

the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer 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.)

MESSAGES FROM THE HOUSE

At 2:10 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, in which it requests the concurrence of the Senate:

H.R. 8. An act to make the repeal of the estate tax permanent.

H.R. 483. An act to designate a United States courthouse in Brownsville, Texas, as the ''Reynaldo G. Garza and Filemon B. Vela United States Courthouse''.

H.R. 787. An act to designate the United States courthouse located at 501 I Street in Sacramento, California, as the ''Robert T. Matsui United States Courthouse''.

H.R. 1463. An act to designate a portion of the Federal building located at 2100 Jamieson Avenue, in Alexandria, Virginia, as the ''Justin W. Williams United States Attorney's Building''.

At 3:41 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 256. An act to amend title 11 of the United States Code, and for other purposes.

ENROLLED BILLS SIGNED

At 4:27 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker of the House of Representatives has signed the following enrolled bill:

S. 256. An act to amend title 11 of the United States Code, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS).

At 5:25 p.m., a message from the House of Representatives, delivered by one of its clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 1134. An act to amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments.

The enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS).

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 483. An act to designate a United States courthouse in Brownsville, Texas, as the ''Reynaldo G. Garza and Filemon B. Vela United States Courthouse''; to the Committee on Environment and Public Works.

H.R. 1463. An act to designate a portion of the Federal building located at 2100 Jamieson Avenue, in Alexandria, Virginia, as the ''Justin W. Williams United States Attorney's Building''; to the Committee on Environment and Public Works.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–1697. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''CORRECTION: Modification of Restricted Areas 5103A, 5103B, and 5103C, and Revocation of Restricted Area 5103D; McGregor, NM'' ((RIN2120–AA66) (2005–0054)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1698. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Colored Federal Airway; AK'' ((RIN2120–AA66) (2005–0045)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1699. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of VOR Federal Airway 623'' ((RIN2120–AA66) (2005–0044)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1700. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class D and E Airspace; Olive Branch, MS and Amendment of Class E Airspace; Memphis TN'' ((RIN2120–AA66) (2005–0043)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1701. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revocation of Class D Airspace; South Lake Tahoe, CA'' ((RIN2120–AA66) (2005–0042)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1702. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E2 Airspace; Wichita Colonel James Jabara Airport, KS'' ((RIN2120–AA66) (2005–0050)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1703. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Independence, KS'' ((RIN2120–AA66) (2005–0051)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1704. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E2 Airspace; Lawrence, KS'' ((RIN2120–AA66) (2005–0052)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1705. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Newton, IA '' ((RIN2120–AA66) (2005–0067)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1706. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Newton, KS'' ((RIN2120–AA66) (2005–0073)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1707. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Point Lay, AK'' ((RIN2120–AA66) (2005–0063)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1708. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Ames, IA'' ((RIN2120–AA66) (2005–0072)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1709. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Ankeny, IA'' ((RIN2120–AA66) (2005–0071)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1710. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E, E2, and E4 Airspace; Columbus Lawson AAF, GA, and Class E5 Airspace; Columbus, GA: CORRECTION'' ((RIN2120–AA66) (2005–0074)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1711. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Ketchikan, AK'' ((RIN2120–AA66) (2005–0062)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1712. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Presque Isle, ME'' ((RIN2120–AA66) (2005–0079)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1713. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: The Cessna Aircraft Company Models C208 and C208B Airplanes; REQUEST FOR COMMENTS'' ((RIN2120–AA64) (2005–0172)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1714. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Aging Aircraft Safety; DISPOSITION OF COMMENTS'' ((RIN2120–AE42) (2005–0001)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1715. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park'' (RIN2120–AG34) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1716. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Repair Stations; DELAY OF EFFECTIVE DATE'' (RIN2120–AI60) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1717. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Passenger Facility Charge Program, Non–Hub Pilot Program and Related Changes'' (RIN2120–AI15) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1718. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Rules of Practice in FAA Civil Penalty Actions; technical amendment'' (RIN2120–ZZ72) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1719. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Emergency Medical Equipment'' (RIN2120–AI55) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1720. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Rules of Practice in FAA Civil Penalty Actions; technical amendment'' ((RIN2120–ZZ72) (2005–0002)) received on April 7, 2005 ; to the Committee on Commerce, Science, and Transportation.

EC–1721. A communication from the Executive Director, Air Transportation Stabilization Board, transmitting, pursuant to law , the report of a rule entitled ''14 CFR Chapter VI, Subchapter B, Air Transportation Stabilization Board, PART 1310, Air Carrier Guarantee Loan Program Administrative Regulations and Amendment or Waiver of a Term or Condition of a Guaranteed Loan'' (RIN1505–AA98) received March 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1722. A communication from the Deputy Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Amendments Affecting the Country Scope of the End-User/End-Use Controls in Section 744.4 of the Export Administration Regulations (EAR)'' (RIN0694–AD15) received on April 11, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1723. A communication from the Director, Industry Programs , International Trade Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Steel Import Monitoring and Analysis System'' (RIN0625–AA64) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1724. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''NMFS is Prohibiting Directed Fishing for Pollock in Statistical Area 610 of the Gulf of Alaska (GOA)'' received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1725. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Closure of Directed Fishing for Yellowfin Sole by Vessels Using Trawl Gear in Bycatch Limitation Zone 1 of the Bering Sea and Aleutian Islands Management Area'' received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1726. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Closure of Pacific Cod to Catcher/Processors Using Trawl Gear in Bering Sea and Aleutian Islands Management Area'' received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1727. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Closure of Pacific Cod to Catcher Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area'' received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1728. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Closure of Directed Fishing for Pacific Cod by Specified Sectors in the Western and Central Regulatory Areas of the Gulf of Alaska (GOA)'' received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1729. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Closure of Pacific Cod by Catcher/Processor Vessels Using Hook-and-Line Gear in the Bering Sea and Aleutian Islands Management Area'' received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1730. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Notice of Fishing Season Dates for the Sablefish Fixed Gear Individual Fishing Quota (IFQ) Program'' received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1731. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''NMFS is Prohibiting Directed Fishing for Pacific Cod by Catcher Vessels Less than 60 ft (18.3 meters (m)) length overall (LOA) Using Jig or Hook-and-Line Gear in the Bogoslof Pacific Cod Exemption Area of the Bering Sea and Aleutian Islands Management Area'' received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1732. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Closure of Groundfish by Vessels Using Non-Pelagic Trawl Gear in the Red King Crab Savings Subarea'' received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1733. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''NMFS is Prohibiting Directed Fishing for Pacific Cod by Catcher Vessels 60 Feet (18.3 Meters (m)) Length Overall and Longer Using Hook–and–Line Gear in the Bering Sea and Aleutian Islands Management Area (BSAI)'' received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1734. A communication from the Assistant Administrator, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Quota Specifications, General Category Effort Controls, and Catch-and-Release Provision'' ((RIN0648) (I.D. No. 072304B)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1735. A communication from the Secretary, Federal Maritime Commission, transmitting, pursuant to law, the report of a rule entitled ''Update of Existing and Addition of New Filing Fees (Docket No. 04–11) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1736. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Highly Migratory Species; Bluefin Tuna Fisheries; Angling Category Closure'' (I.D. No. 030405B) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1737. A communication from the Secretary of the Commission , Bureau of Competition, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled ''16 CFR Parts 801, 802 and 803 Premerger Notification: Reporting and Waiting Period Requirements; Final Rule and Confirming Changes to HSR Formal Interpretations (Issuance of Formal Interpretation 18 and Repeal of Formal Interpretation 15)'' (RIN3084–AA91) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1738. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Evergreen, Alabama, and Shalimar, Florida'' (MB Docket No. 04–219) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1739. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Chillicothe, Dublin, Hillsboro, and Marion, Ohio)'' (MB Docket No. 02–266, RM–10557) received on April 7, 2005 ; to the Committee on Commerce, Science, and Transportation.

EC–1740. A communication from the Acting Chief, Consumer and Governmental Affairs Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Rules and Regulations Implementing the Telephone Consumer

Protection Act of 1991, CG Docket No. 02–278 Second Order on Reconsideration'' (FCC 05–28) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1741. A communication from the Acting Chief, Consumer and Governmental Affairs Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Order on Reconsideration'' (FCC 05–48) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1742. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Gunnison, Crawford, and Olathe, Breckenridge, Eagle, Fort Morgan, Greenwood Village, Loveland, and Stasburg, CO, and Laramie, WY'' (MB Docket No. 03–144) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1743. A communication from the Secretary of Commerce, transmitting, a report of proposed legislation relative to the U .S. Ocean Action Plan; to the Committee on Commerce, Science, and Transportation.

EC–1744. A communication from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the Administration's 2005 annual report entitled ''Atlantic Highly Migratory Species''; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SPECTER, from the Committee on the Judiciary, with an amendment:

S. 119. A bill to provide for the protection of unaccompanied alien children, and for other purposes.

By Mr. SPECTER, from the Committee on the Judiciary, without amendment:

S. 555. A bill to amend the Sherman Act to make oil-producing and exporting cartels illegal.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

Mr. STEVENS. Mr. President, for the Committee on Commerce, Science, and Transportation I report favorably the following nomination lists which were printed in the Records on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

Coast Guard nominations beginning with Curtis L. Sumrok and ending with Jed R. Boba, which nominations were received by the Senate and appeared in the Congressional Record on March 14, 2005.

Coast Guard nominations beginning with Michael T. Cunningham and ending with David K. Young, which nominations were received by the Senate and appeared in the Congressional Record on March 14, 2005.

National Oceanic and Atmospheric Administration nominations beginning with Paul Andrew Kunicki and ending with Lindsey M. Vandenberg, which nominations were received by the Senate and appeared in the Congressional Record on April 4, 2005.

By Mr. SPECTER for the Committee on the Judiciary.

Thomas B. Griffith, of Utah, to be United States Circuit Judge for the District of Columbia Circuit.

James C. Dever III, of North Carolina, to be United States District Judge for the Eastern District of North Carolina.

Robert J. Conrad, Jr., of North Carolina, to be United States District Judge for the Western District of North Carolina.

By Mr. ROBERTS for the Select Committee on Intelligence.

*John D. Negroponte, of New York, to be Director of National Intelligence.

*Lieutenant General Michael V. Hayden, United States Air Force, to be Principal Deputy Director of National Intelligence.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. ENSIGN (for himself, Mr. AKAKA, and Mr. VOINOVICH):

S. 780. A bill to amend title 10, United States Code, to establish the position of Deputy Secretary of Defense for Management, and for other purposes; to the Committee on Armed Services.

By Mr. CRAPO:

S. 781. A bill to preserve the use and access of pack and saddle stock animals on land administered by the National Park Service, the Bureau of Land Management, the United States Fish and Wildlife Service, or the Forest Service on which there is a historical tradition of the use of pack and saddle stock animals, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. FEINGOLD:

S. 782. A bill to amend title 37, United States Code, to authorize travel and transportation for family members of members of the Armed Forces hospitalized in the United States in connection with non-serious illnesses or injuries incurred or aggravated in a contingency operation, and for other purposes; to the Committee on Armed Services.

By Mr. KYL (for himself, Mr. CORNYN, and Mr. COBURN):

S. 783. A bill to repeal the sunset on the 2004 material-support enhancements, to increase penalties for providing material support to terrorist groups, to bar from the United States aliens who have received terrorist training, and for other purposes; to the Committee on the Judiciary.

By Mr. THOMAS (for himself and Mrs. LINCOLN):

S. 784. A bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the medicare program, and for other purposes; to the Committee on Finance.

By Mr. LOTT (for himself and Mrs. LINCOLN):

S. 785. A bill to amend the Internal Revenue Code of 1986 to modify the small refiner exception to the oil depletion deduction; to the Committee on Finance.

By Mr. SANTORUM:

S. 786. A bill to clarify the duties and responsibilities of the National Weather Service, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SCHUMER (for himself, Mr. KENNEDY, Mrs. CLINTON, Mr. LEVIN, Mr. DURBIN, Mr. SARBANES, Mr. KERRY, Mr. CARPER, Mrs. FEINSTEIN, Ms. MIKULSKI, Mr. LAUTENBERG, and Mr. SALAZAR):

S. 787. A bill to amend the Internal Revenue Code of 1986 to equalize the exclusion from gross income of parking and transportation fringe benefits and to provide for a common cost-of-living adjustment, and for other purposes; to the Committee on Finance.

By Mr. SANTORUM:

S. 788. A bill to suspend temporarily the duty on Liquid Crystal Device panel assemblies for use in Liquid Crystal Device direct view televisions; to the Committee on Finance.

By Mr. SANTORUM:

S. 789. A bill to suspend temporarily the duty on Liquid Crystal Device panel assemblies for use in Liquid Crystal Device projection type televisions; to the Committee on Finance.

By Mr. SANTORUM:

S. 790. A bill to suspend temporarily the duty on electron guns for high definition cathode ray tubes; to the Committee on Finance.

By Mr. SANTORUM:

S. 791. A bill to suspend temporarily the duty on flat panel screen assemblies for use in televisions; to the Committee on Finance.

By Mr. DORGAN (for himself, Mr. SPECTER, Mr. DAYTON, Mr. COLEMAN, Mr. CONRAD, Mr. JOHNSON, Mr. LUGAR, and Mr. DURBIN):

S. 792. A bill to establish a National sex offender registration database, and for other purposes; to the Committee on the Judiciary.

By Mr. DURBIN:

S. 793. A bill to establish national standards for discharges from cruise vessels into the waters of the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HARKIN:

S. 794. A bill to amend title 23, United States Code, to improve the safety of nonmotorized transportation, including bicycle and pedestrian safety; to the Committee on Commerce, Science, and Transportation.

By Mr. DODD (for himself and Mr. WARNER):

S. 795. A bill to provide driver safety grants to States with graduated driver licensing laws that meet certain minimum requirements; to the Committee on Environment and Public Works.

By Ms. MURKOWSKI:

S. 796. A bill to amend the National Aquaculture Act of 1980 to prohibit the issuance of permits for marine aquaculture facilities until requirements for such permits are enacted into law; to the Committee on Agriculture, Nutrition, and Forestry.

By Ms. MURKOWSKI (for herself and Mr. STEVENS):

S. 797. A bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to clarify the status of certain communities in the western Alaska community development quota program; to the Committee on Commerce, Science, and Transportation.

By Mr. FEINGOLD (for himself, Mr. CORZINE, Mr. DAYTON, Mr. DURBIN,

Mr. LAUTENBERG, Ms. MIKULSKI, and Mrs. MURRAY):

S. 798. A bill to amend the Family and Medical Leave Act of 1993 and title 5, United States Code, to provide entitlement to leave to eligible employees whose spouse, son, daughter, or parent is a member of the Armed Forces who is serving on active duty in support of a contingency operation or who is notified of an impending call or order to active duty in support of a contingency operation, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KENNEDY:

S. 799. A bill to amend the Public Health Service Act to provide for the coordination of Federal Government policies and activities to prevent obesity in childhood, to provide for State childhood obesity prevention and control, and to establish grant programs to prevent childhood obesity within homes, schools, and communities; to the Committee on Health, Education, Labor, and Pensions.

By Ms. COLLINS (for herself, Mr. LIEBERMAN, Mr. VOINOVICH, Mr. AKAKA, Ms. LANDRIEU, and Mr. DURBIN):

S. 800. A bill to amend the District of Columbia Home Rule Act to provide the District of Columbia with autonomy over its budgets, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. NELSON of Florida:

S. 801. A bill to designate the United States courthouse located at 300 North Hogan Street, Jacksonville, Florida, as the ''John Milton Bryan Simpson United States Courthouse''; to the Committee on Environment and Public Works.

By Mr. DOMENICI (for himself, Mr. BAUCUS, Mr. BURNS, Mr. JOHNSON, Mr. ROBERTS, Mr. BINGAMAN, Mr. ALLARD, Mr. WYDEN, Mr. SMITH, Mr. HAGEL, and Mr. BROWNBACK):

S. 802. A bill to establish a National Drought Council within the Department of Agriculture, to improve national drought preparedness, mitigation, and response efforts, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry .

By Mr. COLEMAN (for himself and Mrs. CLINTON):

S. 803. A bill to amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to provide parity with respect to substance abuse treatment benefits under group health plans and health insurance coverage; to the Committee on Health, Education, Labor, and Pensions.

By Mr. VITTER:

S. 804. A bill to amend the Internal Revenue Code of 1986 to allow certain coins to be acquired by individual retirement accounts and other individually directed pension plan accounts, and for other purposes; to the Committee on Finance.

By Mr. VITTER:

S. 805. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to allow the area of a Presidentially declared disaster to include the outer Continental Shelf; to the Committee on Homeland Security and Governmental Affairs.

By Mr. CRAIG (for himself and Mr. AKAKA):

S. 806. A bil to amend title 38, United States Code, to provide a traumatic injury protection rider to servicemembers insured under section 1967(a)(1) of such title; to the Committee on Veterans' Affairs.

By Mr. CRAIG (for himself, Mr. CRAPO, and Mr. SMITH):

S. 807. A bill to amend the Federal Land Policy and Management Act of 1976 to provide owners of non-Federal lands with a reliable method of receiving compensation for damages resulting from the spread of wildfire from nearby forested National Forest System lands or Bureau of Land Management lands, when those forested Federal lands are not maintained in the forest health status known as condition class 1; to the Committee on Energy and Natural Resources.

By Mr. DURBIN (for himself and Ms. COLLINS):

S. 808. A bill to encourage energy conservation through bicycling; to the Committee on Commerce, Science, and Transportation.

By Mr. LAUTENBERG (for himself, Mr. CORZINE, and Mrs. BOXER):

S. 809. A bill to establish certain duties for pharmacies when pharmacists employed by the pharmacies refuse to fill valid prescriptions for drugs or devices on the basis of personal beliefs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. CLINTON:

S. 810. A bill to regulate the transmission of personally identifiable information to foreign affiliates and subcontractors; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mrs. FEINSTEIN, Mr. THUNE, Mr. TALENT, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BROWNBACK, Mr. BURNS, Mr. BURR, Mr. CHAMBLISS, Mr. COBURN, Mr. COLEMAN, Ms. COLLINS, Mr. CORNYN, Mr. CRAIG, Mr. CRAPO, Mr. DEWINE, Mr. DOMENICI, Mr. ENSIGN, Mr. ENZI, Mr. FRIST, Mr. GRAHAM, Mr. GRASSLEY, Mr. INHOFE, Mr. KYL, Mrs. LINCOLN, Mr. LOTT, Mr. LUGAR, Mr. MCCAIN, Mr. ROBERTS, Mr. SANTORUM, Mr. SESSIONS, Mr. SHELBY, Mr. THOMAS, Mr. VITTER, Mr. WARNER, Mr. BOND, Mr. BUNNING, Mr. DEMINT, Mrs. DOLE, Mr. GREGG, Mr. HAGEL, Mrs. HUTCHISON, Mr. JOHNSON, Mr. MARTINEZ, Mr. NELSON of Nebraska, Ms. SNOWE, Mr. SPECTER, and Mr. STEVENS):

S.J. Res. 12. A joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States; to the Committee on the Judiciary.

By Mr. BROWNBACK (for himself and Mr. INHOFE):

S.J. Res. 13. A joint resolution proposing an amendment to the Constitution of the United States relative to marriage; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. COLLINS (for herself, Mr. DURBIN, Mr. LIEBERMAN, Mr. STEVENS, Mr. VOINOVICH, Mr. AKAKA, Mr. COLEMAN, Mr. LEVIN, Mr. COBURN, Mr. DEWINE, Ms. LANDRIEU, and Mr. LAUTENBERG):

S. Res. 107. A resolution commending Annice M. Wagner, Chief Judge of the District of Columbia Court of Appeals, for her public service; to the Committee on Homeland Security and Governmental Affairs.

By Mr. AKAKA (for himself, Mr. VOINOVICH, Ms. COLLINS, Mr. LIEBERMAN, Mr. COLEMAN, Mr. LEVIN, Mr. COBURN, and Mr. CARPER):

S. Res. 108. A resolution expressing the sense of the Senate that public servants should be commended for their dedication and continued service to the Nation during Public Service Recognition Week, May 2 through 8, 2005; to the Committee on Homeland Security and Governmental Affairs.

By Mr. INHOFE (for himself and Mr. COBURN):

S. Res. 109. A resolution commending the University of Oklahoma Sooners men's gymnastics team for winning the National Collegiate Athletic Association Division I Mens' Gymnastics Championship; considered and agreed to.

By Mr. INHOFE (for himself and Mr. COBURN):

S. Res. 110. A resolution commending Oklahoma State University's wrestling team for winning the 2005 National Collegiate Athletic Association Division I Wrestling Championship; considered and agreed to.

By Mr. KENNEDY (for himself, Mr. FRIST, Mr. LEVIN, Mr. KERRY, Ms. MIKULSKI, Mr. BOND, Mr. BAYH, Mr. AKAKA, Mr. REID, Mr. JOHNSON, Mrs. MURRAY, and Mrs. DOLE):

S. Con. Res. 27. A concurrent resolution honoring military children during ''National Month of the Military Child''; considered and agreed to.

ADDITIONAL COSPONSORS

S. 7

At the request of Mr. KYL, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 7, a bill to increase American jobs and economic growth by making permanent the individual income tax rate reductions, the reduction in the capital gains and dividend tax rates, and the repeal of the estate, gift, and generation-skipping transfer taxes.

S. 78

At the request of Mrs. HUTCHISON, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 78, a bill to make permanent marriage penalty relief.

S. 172

At the request of Mr. DEWINE, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 172, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide for the regulation of all contact lenses as medical devices, and for other purposes.

S. 185

At the request of Mr. NELSON of Florida, the names of the Senator from Oregon (Mr. SMITH) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 185, a bill to amend title 10, United States Code, to repeal the requirement for the reduction of certain Survivor Benefit Plan annuities by the amount of dependency and indemnity compensation and to modify the effective date for paid-up coverage under the Survivor Benefit Plan.

S. 267

At the request of Ms. MURKOWSKI, her name was added as a cosponsor of S. 267, a bill to reauthorize the Secure Rural Schools and Community Self-Determination Act of 2000, and for other purposes.

S. 268

At the request of Mr. HARKIN, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 268, a bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 285

At the request of Mr. BOND, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 285, a bill to reauthorize the Children's Hospitals Graduate Medical Education Program.

S. 300

At the request of Ms. COLLINS, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 300, a bill to extend the temporary increase in payments under the medicare program for home health services furnished in a rural area.

S. 352

At the request of Ms. MIKULSKI, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 352, a bill to revise certain requirements for H–2B employers and require submission of information regarding H–2B non-immigrants, and for other purposes.

S. 359

At the request of Mr. CRAIG, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 359, a bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H–2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.

S. 408

At the request of Mr. DEWINE, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 408, a bill to provide for programs and activities with respect to the prevention of underage drinking.

S. 420

At the request of Mr. KYL, the names of the Senator from Florida (Mr. MARTINEZ) and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of S. 420, a bill to make the repeal of the estate tax permanent.

S. 432

At the request of Mr. ALLEN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 432, a bill to establish a digital and wireless network technology program, and for other purposes.

S. 461

At the request of Mr. ROCKEFELLER, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 461, a bill to amend title 37, United States Code, to require that a member of the uniformed services who is wounded or otherwise injured while serving in a combat zone continue to be paid monthly military pay and allowances, while the member recovers from the wound or injury, at least equal to the monthly military pay and allowances the member received immediately before receiving the wound or injury, to continue the combat zone tax exclusion for the member during the recovery period, and for other purposes.

S. 473

At the request of Ms. CANTWELL, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 473, a bill to amend the Public Health Service Act to promote and improve the allied health professions.

S. 484

At the request of Mr. WARNER, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 484, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 495

At the request of Mr. BROWNBACK, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 495, a bill to impose sanctions against perpetrators of crimes against humanity in Darfur, Sudan, and for other purposes.

At the request of Mr. CORZINE, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 495, supra.

S. 548

At the request of Mr. CONRAD, the names of the Senator from Nebraska (Mr. NELSON), the Senator from Iowa (Mr. HARKIN) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 548, a bill to amend the Food Security Act of 1985 to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make their land available for access by the public under programs administered by States and tribal governments.

S. 555

At the request of Mr. DEWINE, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 555, a bill to amend the Sherman Act to make oil-producing and exporting cartels illegal.

S. 579

At the request of Mr. LIEBERMAN, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 579, a bill to amend the Public Health Service Act to authorize funding for the establishment of a program on children and the media within the National Institute of Child Health and Human Development to study the role and impact of electronic media in the development of children.

S. 593

At the request of Ms. COLLINS, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from Maine (Ms. SNOWE) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 593, a bill to amend title VII of the Tariff Act of 1930 to provide that the provisions relating to countervailing duties apply to nonmarket economy countries.

S. 602

At the request of Ms. MIKULSKI, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 602, a bill to amend the Public Health Service Act to fund breakthroughs in Alzheimer's disease research while providing more help to caregivers and increasing public education about prevention.

S. 614

At the request of Mr. SPECTER, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 614, a bill to amend title 38, United States Code, to permit medicare-eligible veterans to receive an out-patient medication benefit, to provide that certain veterans who receive such benefit are not otherwise eligible for medical care and services from the Department of Veterans Affairs, and for other purposes.

S. 619

At the request of Mrs. FEINSTEIN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 619, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 638

At the request of Mrs. MURRAY, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 638, a bill to extend the authorization for the ferry boat discretionary program, and for other purposes.

S. 642

At the request of Mr. FRIST, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 642, a bill to support certain national youth organizations, including the Boy Scouts of America, and for other purposes.

S. 662

At the request of Ms. COLLINS, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 662, a bill to reform the postal laws of the United States.

S. 666

At the request of Mr. DEWINE, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 666, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

S. 772

At the request of Mr. CORNYN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S.

772, a bill to amend the Internal Revenue Code of 1986 to expand workplace health incentives by equalizing the tax consequences of employee athletic facility use.

S. CON. RES. 4

At the request of Mr. NELSON of Florida, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. Con. Res. 4, a concurrent resolution expressing the sense of the Congress that the Department of Defense should continue to exercise its statutory authority to support the activities of the Boy Scouts of America, in particular the periodic national and world Boy Scout Jamborees.

AMENDMENT NO. 316

At the request of Mr. NELSON of Florida, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of amendment No. 316 intended to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 338

At the request of Ms. SNOWE, the names of the Senator from Wyoming (Mr. ENZI), the Senator from Maine (Ms. COLLINS) and the Senator from Missouri (Mr. TALENT) were added as cosponsors of amendment No. 338 intended to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 342

At the request of Mr. DEWINE, the names of the Senator from Illinois (Mr. OBAMA) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of amendment No. 342 intended to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 387

At the request of Ms. MIKULSKI, the names of the Senator from South Dakota (Mr. THUNE) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of amendment No. 387 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 393

At the request of Mr. KENNEDY, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of amendment No. 393 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 399

At the request of Mr. DORGAN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of amendment No. 399 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 400

At the request of Mr. JEFFORDS, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of amendment No. 400 intended to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 409

At the request of Mr. JEFFORDS, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of amendment No. 409 intended to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KYL (for himself, Mr. CORNYN, and Mr. COBURN):

S. 783. A bill to repeal the sunset on the 2004 material-support enhancements, to increase penalties for providing material support to terrorist groups, to bar from the United States aliens who have received terrorist training, and for other purposes; to the Committee on the Judiciary.

Mr. KYL. Mr. President, I rise today to introduce the Material Support to Terrorism Prohibition Improvements Act of 2005.

Mr. Barry Sabin, the Chief of the Counterterrorism Section of the Justice Department's Criminal Division, testified as to the importance of the material support statute at a September 13 hearing before the Terrorism Subcommittee last year. He emphasized that:

> a key element of the [Justice] Department's strategy for winning the war against terrorism has been to use the material support statutes to prosecute aggressively those individuals who supply terrorists with the support and resources they need to survive. The Department seeks to identify and apprehend terrorists before they can carry out their plans, and the material support statutes are a valuable tool for prosecutors seeking to bring charges against and incapacitate terrorists before they are able to cause death and destruction.

The bill that I introduce today expands current law's exclusion from the United States of persons who give material support to terrorism by training at a terrorist camp. The bill makes such persons inadmissible to the United States, they now only are deportable, and applies these exclusions to pre-enactment terrorist training. Mr. Sabin described at last year's hearing the threat posed by persons who have receive training at a terrorist camp:

> A danger is posed to the vital foreign policy interests and national security of the United States whenever a person knowingly receives military-type training from a designated terrorist organization or persons acting on its behalf. Such an individual stands ready to further the malicious intent of the terrorist organization through terrorist activity that threatens the security of United States nationals or the national security of the United States.

My bill would ensure that such persons not only are removed from the United States once they are found

here, but also are prevented from entering this country in the first place.

Today's bill also repeals a 2006 sunset on several recent clarifications that were made to the material-support statute in order to address vagueness concerns expressed by some courts. At the September 13 Terrorism Subcommittee hearing, George Washington University law professor Jonathan Turley said of the original legislative proposal to clarify the statute: ''[t]his proposal would actually improve the current federal law by correcting gaps and ambiguities that have led to recent judicial reversals. In that sense, the proposal can be viewed as a slight benefit to civil liberties by removing a dangerous level of ambiguity in the law.''

There is no reason why this important provision, and other improvements to the material-support statute made in last year's 9/11 Commission bill, should be allowed to expire at the end of this Congress. This bill would make these improvements permanent.

I ask unanimous consent that the text of the bill and a section by section analysis be printed in the RECORD.

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

S. 783

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Material Support to Terrorism Prohibition Improvements Act of 2005''.

SEC. 2. REPEAL OF SUNSET ON 2004 MATERIAL-SUPPORT ENHANCEMENTS.

Section 6603(g) of the Intelligence Reform and Terrorism Prevention Act of 2004 (18 U.S.C. 2332b note) is repealed.

SEC. 3. BARRING ENTRY TO THE UNITED STATES FOR REPRESENTATIVES AND MEMBERS OF TERRORIST GROUPS AND ALIENS WHO HAVE RECEIVED MILITARY-TYPE TRAINING FROM TERRORIST GROUPS.

Section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)) is amended—

(1) in clause (i)—

(A) in subclause (IV), by amending item (aa) to read as follows:

''(aa) a terrorist organization as defined in clause (vi), or''.

(B) by striking subclause (V) and inserting the following:

''(V) is a member of a terrorist organization—

''(aa) described in subclause (I) or (II) of clause (vi); or

''(bb) described in clause (vi)(III), unless the alien can demonstrate by clear and convincing evidence that the alien did not know, and should not reasonably have known, that the organization was a terrorist organization,''.

(C) in subclause (VI), by striking ''or'' at the end;

(D) in subclause (VII), by inserting ''or'' at the end; and

(E) by inserting after subclause (VII) the following:

''(VIII) has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from, or on behalf of, any organization that, at the time the training was received, was a terrorist organization,''; and

(2) in clause (vi), by striking ''clause (i)(VI)'' and inserting ''subclauses (VI) and (VIII) of clause (i)''.

SEC. 4. EXPANDED REMOVAL FROM THE UNITED STATES OF ALIENS WHO HAVE RECEIVED MILITARY-TYPE TRAINING FROM TERRORIST GROUPS.

Section 237(a)(4)(E) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(E)) is amended to read as follows:

''(E) RECIPIENT OF MILITARY-TYPE TRAINING.—Any alien who has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a terrorist organization (as defined in section 212(a)(3)(B)(vi)), is deportable.''.

SEC. 5. BARRING ENTRY TO AND REMOVING TERRORIST ALIENS FROM THE UNITED STATES BASED ON PRE-ENACTMENT TERRORIST CONDUCT.

The amendments made by sections 3 and 4 of this Act shall apply to—

(1) all aliens subject to removal, deportation, or exclusion at any time; and

(2) acts and conditions constituting a ground for inadmissibility, excludability, deportation, or removal occurring or existing before, on, or after the date of enactment of this Act.

SEC. 6. INCREASED PENALTIES FOR PROVIDING MATERIAL SUPPORT TO TERRORIST GROUPS.

(a) PROVIDING MATERIAL SUPPORT TO TERRORISTS.—Section 2339A(a) of title 18, United States Code, is amended by striking '', imprisoned not more than 15 years,'' and all that follows through ''life.'' and inserting ''and imprisoned for not less than 5 years and not more than 25 years, and, if the death of any person results, shall be imprisoned for not less than 15 years or for life.''.

(b) PROVIDING MATERIAL SUPPORT OR RESOURCES TO DESIGNATED FOREIGN TERRORIST ORGANIZATIONS.—Section 2339B(a) of title 18, United States Code, is amended by striking ''or imprisoned not more than 15 years,'' and all that follows through ''life.'' and inserting ''and imprisoned for not less than 5 years and not more than 25 years, and, if the death of any person results, shall be imprisoned for not less than 15 years or for life.''.

(c) RECEIVING MILITARY-TYPE TRAINING FROM A FOREIGN TERRORIST ORGANIZATION.—Section 2339D of title 18, United States Code, is amended by striking ''or imprisoned for ten years, or both.'' and inserting ''and imprisoned for not less than 3 years and not more than 15 years.''.

Section 1. Bill Title. ''Material Support to Terrorism Prohibition Improvements Act of 2005.''

Section 2. Repeal of Sunset on 2004 Material-Support Enhancements. Section 6603 of the Intelligence Reform and Terrorism Prevention Act of 2004 (the 9/11 Commission Act) includes important provisions that expand and clarify the material-support statutes (18 U.S.C. §§ 2339A & 2339B). These provisions clarify the definitions of the terms ''personnel'', ''training'', and ''expert advice or assistance,'' in order to correct void-for-vagueness problems identified by the Ninth Circuit; expand the jurisdictional bases for material-support offenses; clarify the definition of ''material support;'' and clarify that the United States need only show that a defendant knew that the organization to which he gave material support either engaged in terrorism or was designated as a terror group—thus overruling the Ninth Circuit's conclusion that the United States also must show that the defendant knew of the particular terrorist activity that caused an organization to be designated as a terror group. All of these changes are set to expire on December 31, 2006, pursuant to subsection 6603(g) of the 9/11 Commission Act. This section of this Act repeals subsection (g), making the 2004 material-support enhancements permanent.

Section 3. Barring Entry to the United States for Representatives and Members of Terrorist Groups and Aliens Who Have Received Military-Type Training from Terrorist Groups. This section bars entry to the United States for any alien who has received military-type training from a either a terrorist group that is designated as such by the Secretary of State, or from an undesignated terrorist group. (These groups are defined in 8 U.S.C. § 1182(a)(3)(B)(vi). An undesignated terrorist group is a group that commits or incites terrorist activity with the intent to cause serious bodily injury, prepares or plans terrorist activity, or gathers information on potential targets for terrorist activity.) This section would correct a deficiency in current law, which makes aliens who receive military-type terror training deportable but does not make them inadmissible. Aliens who receive training in violent activity from a terrorist group are not allowed to remain in the United States—they should not be permitted to enter the United States in the first place. This section also bars entry to the United States for aliens who are representatives or members of either designated or undesignated terrorist organizations, though members of undesignated terror groups may avoid exclusion if they can show by clear and convincing evidence that they did not know, and should not reasonably have known, that the organization to which they belonged was a terrorist organization.

Section 4. Expanded Removal from the United States of Aliens Who Have Received Military-Type Training from Terrorist Groups. Under current law, an alien is deportable if he has received military-type training from a terrorist group that is designated as such by the Secretary of State. See 8 U.S.C. § 1227(a)(4)(E). This section also makes deportable an alien who has received military-type training from an undesignated terrorist group. (See Section 3 above for definition of undesignated terror group.)

Section 5. Barring Entry to and Removing Terrorist Aliens from the United States Based on Pre-Enactment Terrorist Conduct. This section makes clear that the terrorist-alien deportation and exclusion provisions in sections 3 and 4 of this Act apply to terrorist activity that the alien engaged in before the enactment of this Act. Congress indisputably has the authority to bar and remove aliens from the United States based on past terrorist conduct. See Lehmann v. U.S. ex rel. Carson, 353 U.S. 685, 690 (1957) (''It seems to us indisputable, therefore, that Congress was legislating retrospectively, as it may do, to cover offenses of the kind here involved.'' (emphasis added; citations omitted)). Under this section, an alien who received military-type training from a terrorist group in Afghanistan in 2001 would be barred from entering or remaining in the United States.

Section 6. Increased Penalties for Providing Material Support to Terrorist Groups. Under current law, providing material support to a terrorist group is a criminal offense that is punishable by zero to 15 years' imprisonment, or zero to life if death results. Receiving military-type training from a terrorist group is punishable by zero to 10

years in prison. Under the Supreme Court's recent decision in United States v. Booker, 125 S.Ct. 738 (January 12, 2005), the federal sentencing guidelines' prescriptions no longer are mandatory—district judges now have discretion to impose little or no jail time for material-support offenses. Booker/Fanfan also limits the appellate courts' ability to correct a district judge's failure to impose jail time for a material-support offense. This section increases the penalties for material-support offenses to 5–25 years' imprisonment, with 15 years to life if death results, and raises the military-type-training penalty to 3–15 years' imprisonment. These enhanced penalties reflect both the gravity of the offense of providing material support to a terrorist group, and the heightened importance, since the terrorist attacks of September 11, 2001, of deterring individuals from providing aid and comfort to terrorist organizations.

By Mr. THOMAS (for himself and Mrs. LINCOLN):

S. 784. A bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the medicare program, and for other purposes; to the Committee on Finance.

Mr. THOMAS. Mr. President, I am pleased to rise today to introduce the ''Seniors Mental Health Access Improvement Act of 2005'' with my distinguished colleague from Arkansas, Mrs. LINCOLN. Specifically, the ''Seniors Mental Health Access Improvement Act of 2005'' permits mental health counselors and marriage and family therapists to bill Medicare for services provided to seniors. This will result in an increased choice of mental health providers for seniors and enhance their ability to access mental health services in their communities.

This legislation is especially crucial to rural seniors who are often forced to travel long distances to utilize the services of mental health providers currently recognized by the Medicare program. Rural communities have difficulty recruiting and retaining providers, especially mental health providers. In many small towns, a mental health counselor or a marriage and family therapist is the only mental health care provider in the area. Medicare law—as it exists today—compounds the situation because only psychiatrists, clinical psychologists, clinical social workers and clinical nurse specialists are able to bill Medicare for their services.

It is time the Medicare program recognized the qualifications of mental health counselors and marriage and family therapists as well as the critical role they play in the mental health care infrastructure. These providers go through rigorous training, similar to the curriculum of masters level social workers, and yet are excluded from the Medicare program.

Particularly troubling to me is the fact that seniors have disproportionally higher rates of depression and suicide than other populations. Additionally, 75 percent of the 518 nationally designated Mental Health Professional Shortage Areas are located in rural areas and one-fifth of all rural counties have no mental health services of any kind. Frontier counties have even more drastic numbers as 95 percent do not have a psychiatrist, 68 percent do not have a psychologist and 78 percent do not have a social worker. It is quite obvious we have an enormous task ahead of us to reduce these staggering statistics. Providing mental health counselors and marriage and family therapists the ability to bill Medicare for their services is a key part of the solution.

Virtually all of Wyoming is designated a mental health professional shortage area and will greatly benefit from this legislation. Wyoming has 174 psychologists, 37 psychiatrists and 263 clinical social workers for a total of 474 Medicare eligible mental health providers. Enactment of the ''Seniors Mental Health Access Improvement Act of 2005'' will more than double the number of mental health providers available to seniors in my State with the addition of 528 mental health counselors and 61 marriage and family therapists currently licensed in the State.

I believe this legislation is critically important to the health and well-being of our Nation's seniors and I strongly urge all my colleagues to become a cosponsor.

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. 784

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Seniors Mental Health Access Improvement Act of 2005''.

SEC. 2. COVERAGE OF MARRIAGE AND FAMILY THERAPIST SERVICES AND MENTAL HEALTH COUNSELOR SERVICES UNDER PART B OF THE MEDICARE PROGRAM.

(a) COVERAGE OF SERVICES.—

(1) IN GENERAL.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(A) in subparagraph (Y), by striking ''and'' after the semicolon at the end;

(B) in subparagraph (Z), by inserting ''and'' after the semicolon at the end; and

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

''(AA) marriage and family therapist services (as defined in subsection (bbb)(1)) and mental health counselor services (as defined in subsection (bbb)(3));''.

(2) DEFINITIONS.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

''Marriage and Family Therapist Services; Marriage and Family Therapist; Mental Health Counselor Services; Mental Health Counselor

''(bbb)(1) The term 'marriage and family therapist services' means services performed by a marriage and family therapist (as defined in paragraph (2)) for the diagnosis and treatment of mental illnesses, which the marriage and family therapist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed, as would otherwise be covered if furnished by a physician or as an incident to a physician's professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

''(2) The term 'marriage and family therapist' means an individual who—

''(A) possesses a master's or doctoral degree which qualifies for licensure or certification as a marriage and family therapist pursuant to State law;

''(B) after obtaining such degree has performed at least 2 years of clinical supervised experience in marriage and family therapy; and

''(C) in the case of an individual performing services in a State that provides for licensure or certification of marriage and family therapists, is licensed or certified as a marriage and family therapist in such State.

''(3) The term 'mental health counselor services' means services performed by a mental health counselor (as defined in paragraph (4)) for the diagnosis and treatment of mental illnesses which the mental health counselor is legally authorized to perform under State law (or the State regulatory mechanism provided by the State law) of the State in which such services are performed, as would otherwise be covered if furnished by a physician or as incident to a physician's professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

''(4) The term 'mental health counselor' means an individual who—

''(A) possesses a master's or doctor's degree in mental health counseling or a related field;

''(B) after obtaining such a degree has performed at least 2 years of supervised mental health counselor practice; and

''(C) in the case of an individual performing services in a State that provides for licensure or certification of mental health counselors or professional counselors, is licensed or certified as a mental health counselor or professional counselor in such State.''.

(3) PROVISION FOR PAYMENT UNDER PART B.—Section 1832(a)(2)(B) of the Social Security Act (42 U.S.C. 1395k(a)(2)(B)) is amended by adding at the end the following new clause:

''(v) marriage and family therapist services and mental health counselor services;''.

(4) AMOUNT OF PAYMENT.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395*l*(a)(1)) is amended—

(A) by striking ''and (V)'' and inserting ''(V)''; and

(B) by inserting before the semicolon at the end the following: '', and (W) with respect to marriage and family therapist services and mental health counselor services under section 1861(s)(2)(AA), the amounts paid shall be 80 percent of the lesser of the actual charge for the services or 75 percent of the amount determined for payment of a psychologist under subparagraph (L)''.

(5) EXCLUSION OF MARRIAGE AND FAMILY THERAPIST SERVICES AND MENTAL HEALTH COUNSELOR SERVICES FROM SKILLED NURSING FACILITY PROSPECTIVE PAYMENT SYSTEM.—Section 1888(e)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1395yy(e)(2)(A)(ii)) is amended by inserting ''marriage and family therapist services (as defined in section 1861(bbb)(1)), mental health counselor services (as defined in section 1861(bbb)(3)),'' after ''qualified psychologist services,''.

(6) INCLUSION OF MARRIAGE AND FAMILY THERAPISTS AND MENTAL HEALTH COUNSELORS AS PRACTITIONERS FOR ASSIGNMENT OF CLAIMS.—Section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C)) is amended by adding at the end the following new clauses:

''(vii) A marriage and family therapist (as defined in section 1861(bbb)(2)).

''(viii) A mental health counselor (as defined in section 1861(bbb)(4)).''.

(b) COVERAGE OF CERTAIN MENTAL HEALTH SERVICES PROVIDED IN CERTAIN SETTINGS.—

(1) RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS.—Section 1861(aa)(1)(B) of the Social Security Act (42 U.S.C. 1395x(aa)(1)(B)) is amended by striking ''or by a clinical social worker (as defined in subsection (hh)(1)),'' and inserting '', by a clinical social worker (as defined in subsection (hh)(1)), by a marriage and family therapist (as defined in subsection (bbb)(2)), or by a mental health counselor (as defined in subsection (bbb)(4)),''.

(2) HOSPICE PROGRAMS.—Section 1861(dd)(2)(B)(i)(III) of the Social Security Act (42 U.S.C. 1395x(dd)(2)(B)(i)(III)) is amended by inserting ''or one marriage and family therapist (as defined in subsection (bbb)(2))'' after ''social worker''.

(c) AUTHORIZATION OF MARRIAGE AND FAMILY THERAPISTS TO DEVELOP DISCHARGE PLANS FOR POST-HOSPITAL SERVICES.—Section 1861(ee)(2)(G) of the Social Security Act (42 U.S.C. 1395x(ee)(2)(G)) is amended by inserting ''marriage and family therapist (as defined in subsection (bbb)(2)),'' after ''social worker,''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services furnished on or after January 1, 2006.

By Mr. SANTORUM:

S. 786. A bill to clarify the duties and responsibilities of the National Weather Service, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. SANTORUM. Mr. President, I rise to introduce the National Weather Services Duties Act of 2005 to clarify the responsibilities of the National Weather Service (NWS) within the National Oceanic and Atmospheric Association, NOAA. This legislation modernizes the statutory description of NWS roles in the national weather enterprise so that it reflects today's reality in which the NWS and the commercial weather industry both play important parts in providing weather products and services to the Nation.

Back in 1890 when the current NWS organic statute was enacted, and all the way through World War II, the public received its weather forecasts and warnings almost exclusively from the Weather Bureau, the NWS's predecessor. In the late 1940s, a fledging weather service industry began to develop. From then until December 2004, the NWS has had policies sensitive to the importance of fostering the industry's expansion, and since 1948 has had formal policies discouraging its competition with industry. Fourteen years ago the NWS took the extra step of carefully delineating the respective roles of the NWS and the commercial weather industry, in addition to pledging its intention not to provide products or services that were or could be provided by the commercial weather industry. This longstanding non-competition and non-duplication policy has had the effect of facilitating the growth of the industry into a billion dollar sector and of strengthening and extending the national weather enterprise, now the best in the world.

Regrettably, the parent agency of the NWS, NOAA, repealed the 1991 non-competition and non-duplication policy in December 2004. Its new policy only promises to ''give due consideration'' to the abilities of private sector entities. The new policy appears to signal the intention of NOAA and the NWS to expand their activities into areas that are already well served by the commercial weather industry. This detracts from NWS's core missions of maintaining a modem and effective meteorological infrastructure, collecting comprehensive observational data, and issuing warnings and forecasts of severe weather that imperils life and property.

Additionally, NOAA's action threatens the continued success of the commercial weather industry. It is not an easy prospect for a business to attract advertisers, subscribers, or investors when the government is providing similar products and services for free. This bill restores the NWS non-competition policy. However, the legislation leaves NWS with complete and unfettered freedom to carry out its critical role of preparing and issuing severe weather warnings and forecasts designed for the protection of life and property of the general public. I believe it is in the best interest of both the government and NWS to concentrate on this critical role and its other core missions. The beauty of a highly competent private sector is that services that are not inherently involved in public safety and security can be carried out with little or no expenditure of taxpayer dollars. At a time of tight agency budgets, the commercial weather industry's increasing capabilities offer the Federal Government the opportunity to focus its resources on the governmental functions of collecring and distributing weather data, research and development of atmospheric models and core forecasts, and on ensuring that NWS meteorologists provide the most timely and accurate warnings and forecasts of life-threatening weather.

The National Weather Service Duties Act also addresses the potential misuse of insider information. Currently, NOAA and the NWS are doing little to safeguard the NWS information that could be used by opportunistic investors to gain unfair profits in the weather futures markets, in the agriculture and energy markets, and in other business segments influenced by government weather outlooks, forecasts, and warnings. No one knows who may be taking advantage of this information. In recent years there have been various examples of NWS personnel providing such information to specific TV stations and others that enable those businesses to secure an advantage over their competitors. The best way to address this problem is to require that NWS data, information, guidance, forecasts and warnings be issued in real time and simultaneously to all members of the public, the media and the commercial weather industry. This bill imposes just such a requirement, which is common to other Federal agencies. The responsibilities of the commercial weather industry as the only private sector producer of weather information, services and systems deserve this definition to ensure continued growth and investment in the private sector and to properly focus the government's activities.

We have every right to expect these agencies to minimize unnecessary, competitive, and commercial-type activities, and to do the best possible job of warning the public about impending flash floods, hurricanes, tornadoes, tsunamis, and other potentially catastrophic events. I encourage my colleagues to support this important piece of legislation.

By Mr. DURBIN:

S. 793. A bill to establish national standards for discharges from cruise vessels into the waters of the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 793

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 ''Clean Cruise Ship Act of 2005''.

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

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) cruise vessels carry millions of passengers each year, and in 2001, carried 8,400,000 passengers in North America;

(2) cruise vessels carry passengers to and through the most beautiful ocean areas in the United States and provide many people in the United States ample opportunities to relax and learn about oceans and marine ecosystems;

(3) ocean pollution threatens the beautiful and inspiring oceans and marine wildlife

that many cruise vessels intend to present to travelers;

(4) cruise vessels generate tremendous quantities of pollution, including—

(A) sewage (including sewage sludge);

(B) graywater from showers, sinks, laundries, baths, and galleys;

(C) oily water;

(D) toxic chemicals from photo processing, dry cleaning, and paints;

(E) ballast water;

(F) solid wastes; and

(G) emissions of air pollutants;

(5) some of the pollution generated by cruise ships, particularly sewage discharge, can lead to high levels of nutrients that are known to harm and kill coral reefs and which can increase the quantity of pathogens in the water and heighten the susceptibility of many coral species to scarring and disease;

(6) laws in effect as of the date of enactment of this Act do not provide adequate controls, monitoring, or enforcement of certain discharges from cruise vessels into the waters of the United States; and

(7) to protect coastal and ocean areas of the United States from pollution generated by cruise vessels, new Federal legislation is needed to reduce and better regulate discharges from cruise vessels, and to improve monitoring, reporting, and enforcement of discharges.

(b) PURPOSES.—The purposes of this Act are—

(1) to prevent the discharge of any untreated sewage or graywater from a cruise vessel entering ports of the United States into the waters of the United States;

(2) to prevent the discharge of any treated sewage, sewage sludge, graywater, or bilge water from cruise vessels entering ports of the United States into the territorial sea;

(3) to establish new national effluent limits and management standards for the discharge of treated sewage or graywater from cruise vessels entering ports of the United States into the exclusive economic zone of the United States in any case in which the discharge is not within an area in which discharges are prohibited; and

(4) to ensure that cruise vessels entering ports of the United States comply with all applicable environmental laws.

SEC. 3. DEFINITIONS.

In this Act:

(1) COMMANDANT.—The term ''Commandant'' means the Commandant of the Coast Guard.

(2) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(3) TERRITORIAL SEA.—The term ''territorial sea''—

(A) means the belt of the sea measured from the baseline of the United States determined in accordance with international law, as set forth in Presidential Proclamation number 5928, dated December 27, 1988; and

(B) includes the waters lying seaward of the line of ordinary low water and extending to the baseline of the United States, as determined under subparagraph (A).

(4) EXCLUSIVE ECONOMIC ZONE.—The term ''exclusive economic zone'' means the Exclusive Economic Zone of the United States established by Presidential Proclamation number 5030, dated March 10, 1983.

(5) WATERS OF THE UNITED STATES.—The term ''waters of the United States'' means the waters of the territorial sea, the exclusive economic zone, and the Great Lakes.

(6) GREAT LAKE.—The term ''Great Lake'' means—

(A) Lake Erie;

(B) Lake Huron (including Lake Saint Clair);

(C) Lake Michigan;

(D) Lake Ontario; and

(E) Lake Superior.

(7) CRUISE VESSEL.—The term ''cruise vessel''—

(A) means a passenger vessel (as defined in section 2101(22) of title 46, United States Code), that—

(i) is authorized to carry at least 250 passengers; and

(ii) has onboard sleeping facilities for each passenger; and

(B) does not include—

(i) a vessel of the United States operated by the Federal Government; or

(ii) a vessel owned and operated by the government of a State.

(8) PASSENGER.—The term ''passenger''—

(A) means any person on board a cruise vessel for the purpose of travel; and

(B) includes—

(i) a paying passenger; and

(ii) a staffperson, such as a crew member, captain, or officer.

(9) PERSON.—The term ''person'' means—

(A) an individual;

(B) a corporation;

(C) a partnership;

(D) a limited liability company;

(E) an association;

(F) a State;

(G) a municipality;

(H) a commission or political subdivision of a State; and

(I) an Indian tribe.

(10) CITIZEN.—The term ''citizen'' means a person that has an interest that is or may be adversely affected by any provision of this Act.

(11) DISCHARGE.—The term ''discharge''—

(A) means a release of any substance, however caused, from a cruise vessel; and

(B) includes any escape, disposal, spilling, leaking, pumping, emitting or emptying of any substance.

(12) SEWAGE.—The term ''sewage'' means—

(A) human body wastes;

(B) the wastes from toilets and other receptacles intended to receive or retain human body wastes; and

(C) sewage sludge.

(13) GRAYWATER.—The term ''graywater'' means galley, dishwasher, bath, and laundry waste water.

(14) BILGE WATER.—The term ''bilge water'' means wastewater that includes lubrication oils, transmission oils, oil sludge or slops, fuel or oil sludge, used oil, used fuel or fuel filters, or oily waste.

(15) SEWAGE SLUDGE.—The term ''sewage sludge''—

(A) means any solid, semi-solid, or liquid residue removed during the treatment of municipal waste water or domestic sewage;

(B) includes—

(i) solids removed during primary, secondary, or advanced waste water treatment;

(ii) scum;

(iii) septage;

(iv) portable toilet pumpings;

(v) type III marine sanitation device pumpings (as defined in part 159 of title 33, Code of Federal Regulations); and

(vi) sewage sludge products; and

(C) does not include—

(i) grit or screenings; or

(ii) ash generated during the incineration of sewage sludge.

(16) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

SEC. 4. PROHIBITIONS AND CONDITIONS REGARDING THE DISCHARGE OF SEWAGE, GRAYWATER, OR BILGE WATER.

(a) PROHIBITION.—

(1) IN GENERAL.—Except as provided in paragraph (2) and section 11, no cruise vessel entering a port of the United States may discharge sewage, graywater, or bilge water into the waters of the United States.

(2) EXCEPTION.—A cruise vessel described in paragraph (1) may not discharge sewage, graywater, or bilge water into the exclusive economic zone but outside the territorial sea, or, in the case of the Great Lakes, beyond any point that is 12 miles from the shore unless—

(A)(i) in the case of a discharge of sewage or graywater, the discharge meets all applicable effluent limits established under this Act and is in accordance with all other applicable laws; or

(ii) in the case of a discharge of bilge water, the discharge is in accordance with all applicable laws;

(B) the cruise vessel meets all applicable management standards established under this Act; and

(C) the cruise vessel is not discharging in an area in which the discharge is otherwise prohibited.

(b) SAFETY EXCEPTION.—

(1) SCOPE OF EXCEPTION.—Subsection (a) shall not apply in any case in which—

(A) a discharge is made solely for the purpose of securing the safety of the cruise vessel or saving a human life at sea; and

(B) all reasonable precautions have been taken for the purpose of preventing or minimizing the discharge.

(2) NOTIFICATION OF COMMANDANT.—

(A) IN GENERAL.—If the owner, operator, or master, or other individual in charge, of a cruise vessel authorizes a discharge described in paragraph (1), the individual shall notify the Commandant of the decision to authorize the discharge as soon as practicable, but not later than 24 hours, after authorizing the discharge.

(B) REPORT.—Not later than 7 days after the date on which an individual described in subparagraph (A) notifies the Commandant of an authorization of a discharge under the safety exception under this paragraph, the individual shall submit to the Commandant a report that includes—

(i) the quantity and composition of each discharge made under the safety exception;

(ii) the reason for authorizing each discharge;

(iii) the location of the vessel during the course of each discharge; and

(iv) such other supporting information and data as are requested by the Commandant.

SEC. 5. EFFLUENT LIMITS FOR DISCHARGES OF SEWAGE AND GRAYWATER.

(a) EFFLUENT LIMITS.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Commandant and the Administrator shall jointly promulgate effluent limits for sewage and graywater discharges from cruise vessels entering ports of the United States.

(2) REQUIREMENTS.—The effluent limits shall—

(A) require the application of the best available technology that will result in the greatest level of effluent reduction achievable, recognizing that the national goal is the elimination of the discharge of all pollutants in sewage and graywater by cruise vessels into the waters of the United States by 2015; and

(B) require compliance with all relevant water quality criteria standards.

(b) MINIMUM LIMITS.—The effluent limits under subsection (a) shall require, at a minimum, that treated sewage and graywater effluent discharges from cruise vessels shall, not later than 3 years after the date of enactment of this Act, meet the following standards:

(1) IN GENERAL.—The discharge satisfies the minimum level of effluent quality specified in section 133.102 of title 40, Code of Regulations (or a successor regulation).

(2) FECAL COLIFORM.—With respect to the samples from the discharge during any 30-day period—

(A) the geometric mean of the samples shall not exceed 20 fecal coliform per 100 milliliters; and

(B) not more than 10 percent of the samples shall exceed 40 fecal coliform per 100 milliliters.

(3) RESIDUAL CHLORINE.—Concentrations of total residual chlorine in samples shall not exceed 10 milligrams per liter.

(c) REVIEW AND REVISION OF EFFLUENT LIMITS.—The Commandant and the Administrator shall jointly—

(1) review the effluent limits required by subsection (a) at least once every 3 years; and

(2) revise the effluent limits as necessary to incorporate technology available at the time of the review in accordance with subsection (a)(2).

SEC. 6. INSPECTION AND SAMPLING.

(a) DEVELOPMENT AND IMPLEMENTATION OF INSPECTION PROGRAM.—

(1) IN GENERAL.—The Commandant, in consultation with the Administrator, shall promulgate regulations to implement an inspection, sampling, and testing program sufficient to verify that cruise vessels calling on ports of the United States are in compliance with—

(A) this Act (including regulations promulgated under this Act);

(B) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (including regulations promulgated under that Act);

(C) other applicable Federal laws and regulations; and

(D) all applicable requirements of international agreements.

(2) INSPECTIONS.—The program shall require that—

(A) regular announced and unannounced inspections be conducted of any relevant aspect of cruise vessel operations, equipment, or discharges, including sampling and testing of cruise vessel discharges; and

(B) each cruise vessel that calls on a port of the United States shall be subject to an unannounced inspection at least annually.

(b) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Commandant, in consultation with the Administrator, shall promulgate regulations that, at a minimum—

(1) require the owner, operator, or master, or other individual in charge, of a cruise vessel to maintain and produce a logbook detailing the times, types, volumes, and flow rates, origins, and locations of any discharges from the cruise vessel;

(2) provide for routine announced and unannounced inspections of—

(A) cruise vessel environmental compliance records and procedures; and

(B) the functionality and proper operation of installed equipment for abatement and control of any cruise vessel discharge (which equipment shall include equipment intended to treat sewage, graywater, or bilge water);

(3) require the sampling and testing of cruise vessel discharges that require the owner, operator, or master, or other individual in charge, of a cruise vessel—

(A) to conduct that sampling or testing; and

(B) to produce any records of the sampling or testing;

(4) require any owner, operator, or master, or other individual in charge, of a cruise vessel who has knowledge of a discharge from the cruise vessel in violation of this Act (including regulations promulgated under this Act) to immediately report that discharge to the Commandant (who shall provide notification of the discharge to the Administrator); and

(5) require the owner, operator, or master, or other individual in charge, of a cruise vessel to provide to the Commandant and Administrator a blueprint of each cruise vessel that includes the location of every discharge pipe and valve.

(c) EVIDENCE OF COMPLIANCE.—

(1) VESSEL OF THE UNITED STATES.—

(A) IN GENERAL.—A cruise vessel registered in the United States to which this Act applies shall have a certificate of inspection issued by the Commandant.

(B) ISSUANCE OF CERTIFICATE.—The Commandant may issue a certificate described in subparagraph (A) only after the cruise vessel has been examined and found to be in compliance with this Act, including prohibitions on discharges and requirements for effluent limits, as determined by the Commandant.

(C) VALIDITY OF CERTIFICATE.—A certificate issued under this paragraph—

(i) shall be valid for a period of not more than 5 years, beginning on the date of issuance of the certificate;

(ii) may be renewed as specified by the Commandant; and

(iii) shall be suspended or revoked if the Commandant determines that the cruise vessel for which the certificate was issued is not in compliance with the conditions under which the certificate was issued.

(D) SPECIAL CERTIFICATES.—The Commandant may issue special certificates to certain vessels that exhibit compliance with this Act and other best practices, as determined by the Commandant.

(2) FOREIGN VESSEL.—

(A) IN GENERAL.—A cruise vessel registered in a country other than the United States to which this Act applies may operate in the waters of the United States, or visit a port or place under the jurisdiction of the United States, only if the cruise vessel has been issued a certificate of compliance by the Commandant.

(B) ISSUANCE OF CERTIFICATE.—The Commandant may issue a certificate described in subparagraph (A) to a cruise vessel only after the cruise vessel has been examined and found to be in compliance with this Act, including prohibitions on discharges and requirements for effluent limits, as determined by the Commandant.

(C) ACCEPTANCE OF FOREIGN DOCUMENTATION.—The Commandant may consider a certificate, endorsement, or document issued by the government of a foreign country under a treaty, convention, or other international agreement to which the United States is a party, in issuing a certificate of compliance under this paragraph. Such a certificate, endorsement, or document shall not serve as a proxy for certification of compliance with this Act.

(D) VALIDITY OF CERTIFICATE.—A certificate issued under this section—

(i) shall be valid for a period of not more than 24 months, beginning on the date of issuance of the certificate;

(ii) may be renewed as specified by the Commandant; and

(iii) shall be suspended or revoked if the Commandant determines that the cruise vessel for which the certificate was issued is not in compliance with the conditions under which the certificate was issued.

(d) CRUISE OBSERVER PILOT PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Commandant shall establish, and for each of fiscal years 2006 through 2008, shall carry out, a program for the placement of 2 or more independent observers on cruise vessels for the purpose of monitoring and inspecting cruise vessel operations, equipment, and discharges to ensure compliance with—

(A) this Act (including regulations promulgated under this Act); and

(B) all other relevant Federal laws and international agreements.

(2) RESPONSIBILITIES.—An observer described in paragraph (1) shall—

(A) observe and inspect—

(i) onboard environmental treatment systems;

(ii) use of shore-based treatment and storage facilities;

(iii) discharges and discharge practices; and

(iv) blueprints, logbooks, and other relevant information;

(B) have the authority to interview and otherwise query any crew member with knowledge of vessel operations;

(C) have access to all data and information made available to government officials under this section; and

(D) immediately report any known or suspected violation of this Act or any other applicable Federal law or international agreement to—

(i) the Coast Guard; and

(ii) the Environmental Protection Agency.

(3) REPORT.—Not later than January 31, 2008, the Commandant shall submit to Congress a report describing the results, and recommendations for continuance, of the program under this subsection.

(e) ONBOARD MONITORING SYSTEM PILOT PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator of the National Oceanic and Atmospheric Administration, in consultation with the Administrator and the Commandant, shall establish, and for each of fiscal years 2006 through 2011, shall carry out, with industry partners as necessary, a pilot program to develop and promote commercialization of technologies to provide real-time data to Federal agencies regarding—

(A) graywater and sewage discharges from cruise vessels; and

(B) functioning of cruise vessel components relating to pollution control.

(2) TECHNOLOGY REQUIREMENTS.—Technologies developed under the program under this subsection—

(A) shall have the ability to record—

(i) the location and time of discharges from cruise vessels;

(ii) the source, content, and volume of those discharges; and

(iii) the state of components relating to pollution control at the time of the discharges, including whether the components are operating correctly; and

(B) shall be tested on not less than 10 percent of all cruise vessels operating in the territorial sea of the United States, including large and small vessels.

(3) PARTICIPATION OF INDUSTRY.—

(A) COMPETITIVE SELECTION PROCESS.—Industry partners willing to participate in the program may do so through a competitive selection process conducted by the Administrator of the National Oceanic and Atmospheric Administration.

(B) CONTRIBUTION.—A selected industry partner shall contribute not less than 20 percent of the cost of the project in which the industry partner participates.

(4) REPORT.—Not later than January 31, 2008, the Administrator of the National Oceanic and Atmospheric Administration shall submit to Congress a report describing the results, and recommendations for continuance, of the program under this subsection.

SEC. 7. EMPLOYEE PROTECTION.

(a) PROHIBITION OF DISCRIMINATION AGAINST PERSONS FILING, INSTITUTING, OR TESTIFYING

IN PROCEEDINGS UNDER THIS ACT.—No person shall terminate the employment of, or in any other way discriminate against (or cause the termination of employment of or discrimination against), any employee or any authorized representative of employees by reason of the fact that the employee or representative—

(1) has filed, instituted, or caused to be filed or instituted any proceeding under this Act; or

(2) has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this Act.

(b) APPLICATION FOR REVIEW; INVESTIGATION; HEARINGS; REVIEW.—

(1) IN GENERAL.—An employee or a representative of employees who believes that the termination of the employment of the employee has occurred, or that the employee has been discriminated against, as a result of the actions of any person in violation of subsection (a) may, not later than 30 days after the date on which the alleged violation occurred, apply to the Secretary of Labor for a review of the alleged termination of employment or discrimination.

(2) APPLICATION.—A copy of an application for review filed under paragraph (1) shall be sent to the respondent.

(3) INVESTIGATION.—

(A) IN GENERAL.—On receipt of an application for review under paragraph (1), the Secretary of Labor shall carry out an investigation of the complaint.

(B) REQUIREMENTS.—In carrying out this subsection, the Secretary of Labor shall—

(i) provide an opportunity for a public hearing at the request of any party to the review to enable the parties to present information relating to the alleged violation;

(ii) ensure that, at least 5 days before the date of the hearing, each party to the hearing is provided written notice of the time and place of the hearing; and

(iii) ensure that the hearing is on the record and subject to section 554 of title 5, United States Code.

(C) FINDINGS OF COMMANDANT.—On completion of an investigation under this paragraph, the Secretary of Labor shall—

(i) make findings of fact;

(ii) if the Secretary of Labor determines that a violation did occur, issue a decision, incorporating an order and the findings, requiring the person that committed the violation to take such action as is necessary to abate the violation, including the rehiring or reinstatement, with compensation, of an employee or representative of employees to the former position of the employee or representative; and

(iii) if the Secretary of Labor determines that there was no violation, issue an order denying the application.

(D) ORDER.—An order issued by the Secretary of Labor under subparagraph (C) shall be subject to judicial review in the same manner as orders and decisions of the Administrator are subject to judicial review under this Act.

(c) COSTS AND EXPENSES.—In any case in which an order is issued under this section to abate a violation, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including attorney's fees), as determined by the Secretary of Labor, to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of the proceedings, shall be assessed against the person committing the violation.

(d) DELIBERATE VIOLATIONS BY EMPLOYEE ACTING WITHOUT DIRECTION FROM EMPLOYER OR AGENT.—This section shall not apply to any employee that, without direction from the employer of the employee (or agent of the employer), deliberately violates any provision of this Act.

SEC. 8. JUDICIAL REVIEW.

(a) REVIEW OF ACTIONS BY ADMINISTRATOR OR COMMANDANT; SELECTION OF COURT; FEES.—

(1) REVIEW OF ACTIONS.—

(A) IN GENERAL.—Any interested person may petition for a review, in the United States circuit court for the circuit in which the person resides or transacts business directly affected by the action of which review is requested—

(i) of an action of the Commandant in promulgating any effluent limit under section 5; or

(ii) of an action of the Commandant in carrying out an inspection, sampling, or testing under section 6.

(B) DEADLINE FOR REVIEW.—A petition for review under subparagraph (A) shall be made—

(i) not later than 120 days after the date of promulgation of the limit or standard relating to the review sought; or

(ii) if the petition for review is based solely on grounds that arose after the date described in clause (i), as soon as practicable after that date.

(2) CIVIL AND CRIMINAL ENFORCEMENT PROCEEDINGS.—An action of the Commandant or Administrator with respect to which review could have been obtained under paragraph (1) shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

(3) AWARD OF FEES.—In any judicial proceeding under this subsection, a court may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing or substantially prevailing party in any case in which the court determines such an award to be appropriate.

(b) ADDITIONAL EVIDENCE.—

(1) IN GENERAL.—In any judicial proceeding instituted under subsection (a) in which review is sought of a determination under this Act required to be made on the record after notice and opportunity for hearing, if any party applies to the court for leave to adduce additional evidence, and demonstrates to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to adduce the evidence in the proceeding before the Commandant or Administrator, the court may order the additional evidence (and evidence in rebuttal of the additional evidence) to be taken before the Commandant or Administrator, in such manner and on such terms and conditions as the court determines to be appropriate.

(2) MODIFICATION OF FINDINGS.—On admission of additional evidence under paragraph (1), the Commandant or Administrator—

(A) may modify findings of fact of the Commandant or Administrator, as the case may be, relating to a judicial proceeding, or make new findings of fact, by reason of the additional evidence so admitted; and

(B) shall file with the return of the additional evidence any modified or new findings, and any related recommendations, for the modification or setting aside of any original determinations of the Commandant or Administrator.

SEC. 9. ENFORCEMENT.

(a) IN GENERAL.—Any person that violates section 4 or any regulation promulgated under this Act may be assessed—

(1) a class I or class II penalty described in subsection (b); or

(2) a civil penalty in a civil action under subsection (c).

(b) AMOUNT OF ADMINISTRATIVE PENALTY.—

(1) CLASS I.—The amount of a class I civil penalty under subsection (a)(1) may not exceed—

(A) $10,000 per violation; or

(B) $25,000 in the aggregate, in the case of multiple violations.

(2) CLASS II.—The amount of a class II civil penalty under subsection (a)(1) may not exceed—

(A) $10,000 per day for each day during which the violation continues; or

(B) $125,000 in the aggregate, in the case of multiple violations.

(3) SEPARATE VIOLATIONS.—Each day on which a violation continues shall constitute a separate violation.

(4) DETERMINATION OF AMOUNT.—In determining the amount of a civil penalty under subsection (a)(1), the Commandant or the court, as appropriate, shall consider—

(A) the seriousness of the violation;

(B) any economic benefit resulting from the violation;

(C) any history of violations;

(D) any good-faith efforts to comply with the applicable requirements;

(E) the economic impact of the penalty on the violator; and

(F) such other matters as justice may require.

(5) PROCEDURE FOR CLASS I PENALTY.—

(A) IN GENERAL.—Before assessing a civil penalty under this subsection, the Commandant shall provide to the person to be assessed the penalty—

(i) written notice of the proposal of the Commandant to assess the penalty; and

(ii) the opportunity to request, not later than 30 days after the date on which the notice is received by the person, a hearing on the proposed penalty.

(B) HEARING.—A hearing described in subparagraph (A)(ii)—

(i) shall not be subject to section 554 or 556 of title 5, United States Code; but

(ii) shall provide a reasonable opportunity to be heard and to present evidence.

(6) PROCEDURE FOR CLASS II PENALTY.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, a class II civil penalty shall be assessed and collected in the same manner, and subject to the same provisions, as in the case of civil penalties assessed and collected after notice and an opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code.

(B) RULES.—The Commandant may promulgate rules for discovery procedures for hearings under this subsection.

(7) RIGHTS OF INTERESTED PERSONS.—

(A) PUBLIC NOTICE.—Before issuing an order assessing a class II civil penalty under this subsection, the Commandant shall provide public notice of and reasonable opportunity to comment on the proposed issuance of each order.

(B) PRESENTATION OF EVIDENCE.—

(i) IN GENERAL.—Any person that comments on a proposed assessment of a class II civil penalty under this subsection shall be given notice of—

(I) any hearing held under this subsection; and

(II) any order assessing the penalty.

(ii) HEARING.—In any hearing described in clause (i)(I), a person described in clause (i) shall have a reasonable opportunity to be heard and to present evidence.

(C) RIGHTS OF INTERESTED PERSONS TO A HEARING.—

(i) IN GENERAL.—If no hearing is held under subparagraph (B) before the date of issuance of an order assessing a class II civil penalty under this subsection, any person that commented on the proposed assessment may, not later than 30 days after the date of issuance of the order, petition the Commandant—

(I) to set aside the order; and

(II) to provide a hearing on the penalty.

(ii) NEW EVIDENCE.—If any evidence presented by a petitioner in support of the petition under clause (i) is material and was not considered in the issuance of the order, as determined by the Commandant, the Commandant shall immediately—

(I) set aside the order; and

(II) provide a hearing in accordance with subparagraph (B)(ii).

(iii) DENIAL OF HEARING.—If the Commandant denies a hearing under this subparagraph, the Commandant shall provide to the petitioner, and publish in the Federal Register, notice of and the reasons for the denial.

(8) FINALITY OF ORDER.—

(A) IN GENERAL.—An order assessing a class II civil penalty under this subsection shall become final on the date that is 30 days after the date of issuance of the order unless, before that date—

(i) a petition for judicial review is filed under paragraph (10); or

(ii) a hearing is requested under paragraph (7)(C).

(B) DENIAL OF HEARING.—If a hearing is requested under paragraph (7)(C) and subsequently denied, an order assessing a class II civil penalty under this subsection shall become final on the date that is 30 days after the date of the denial.

(9) EFFECT OF ACTION ON COMPLIANCE.—No action by the Commandant under this subsection shall affect the obligation of any person to comply with any provision of this Act.

(10) JUDICIAL REVIEW.—

(A) IN GENERAL.—Any person against which a civil penalty is assessed under this subsection, or that commented on the proposed assessment of such a penalty in accordance with paragraph (7), may obtain review of the assessment in a court described in subparagraph (B) by—

(i) filing a notice of appeal with the court within the 30-day period beginning on the date on which the civil penalty order is issued; and

(ii) simultaneously sending a copy of the notice by certified mail to the Commandant and the Attorney General.

(B) COURTS OF JURISDICTION.—Review of an assessment under subparagraph (A) may be obtained by a person—

(i) in the case of assessment of a class I civil penalty, in—

(I) the United States District Court for the District of Columbia; or

(II) the United States district court for the district in which the violation occurred; or

(ii) in the case of assessment of a class II civil penalty, in—

(I) the United States Court of Appeals for the District of Columbia Circuit; or

(II) the United States circuit court for any other circuit in which the person resides or transacts business.

(C) COPY OF RECORD.—On receipt of notice under subparagraph (A)(ii), the Commandant, shall promptly file with the appropriate court a certified copy of the record on which the order assessing a civil penalty that is the subject of the review was issued.

(D) SUBSTANTIAL EVIDENCE.—A court with jurisdiction over a review under this paragraph—

(i) shall not set aside or remand an order described in subparagraph (C) unless—

(I) there is not substantial evidence in the record, taken as a whole, to support the finding of a violation; or

(II) the assessment by the Commandant of the civil penalty constitutes an abuse of discretion; and

(ii) shall not impose additional civil penalties for the same violation unless the assessment by the Commandant of the civil penalty constitutes an abuse of discretion.

(11) COLLECTION.—

(A) IN GENERAL.—If any person fails to pay an assessment of a civil penalty after the assessment has become final, or after a court in a proceeding under paragraph (10) has entered a final judgment in favor of the Commandant, the Commandant shall request the Attorney General to bring a civil action in an appropriate district court to recover—

(i) the amount assessed; and

(ii) interest that has accrued on the amount assessed, as calculated at currently prevailing rates beginning on the date of the final order or the date of the final judgment, as the case may be.

(B) NONREVIEWABILITY.—In an action to recover an assessed civil penalty under subparagraph (A), the validity, amount, and appropriateness of the civil penalty shall not be subject to judicial review.

(C) FAILURE TO PAY PENALTY.—Any person that fails to pay, on a timely basis, the amount of an assessment of a civil penalty under subparagraph (A) shall be required to pay, in addition to the amount of the civil penalty and accrued interest—

(i) attorney's fees and other costs for collection proceedings; and

(ii) for each quarter during which the failure to pay persists, a quarterly nonpayment penalty in an amount equal to 20 percent of the aggregate amount of the assessed civil penalties and nonpayment penalties of the person that are unpaid as of the beginning of the quarter.

(12) SUBPOENAS.—

(A) IN GENERAL.—The Commandant may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, or documents in connection with hearings under this subsection.

(B) REFUSAL TO OBEY.—In case of contumacy or refusal to obey a subpoena issued under this paragraph and served on any person—

(i) the United States district court for any district in which the person is found, resides, or transacts business, on application by the United States and after notice to the person, shall have jurisdiction to issue an order requiring the person to appear and give testimony before the Commandant or to appear and produce documents before the Commandant; and

(ii) any failure to obey such an order of the court may be punished by the court as a contempt of the court.

(c) CIVIL ACTION.—The Commandant may commence, in the United States district court for the district in which the defendant is located, resides, or transacts business, a civil action to impose a civil penalty under this subsection in an amount not to exceed $25,000 for each day of violation.

(d) CRIMINAL PENALTIES.—

(1) NEGLIGENT VIOLATIONS.—A person that negligently violates section 4 or any regulation promulgated under this Act commits a Class A misdemeanor.

(2) KNOWING VIOLATIONS.—Any person that knowingly violates section 4 or any regulation promulgated under this Act commits a Class D felony.

(3) FALSE STATEMENTS.—Any person that knowingly makes any false statement, representation, or certification in any record, report, or other document filed or required to be maintained under this Act or any regulation promulgated under this Act, or that falsifies, tampers with, or knowingly renders inaccurate any testing or monitoring device or method required to be maintained under this Act or any regulation promulgated under this Act, commits a Class D felony.

(e) REWARDS.—

(1) PAYMENTS TO INDIVIDUALS.—

(A) IN GENERAL.—The Commandant or the court, as the case may be, may order payment, from a civil penalty or criminal fine collected under this section, of an amount not to exceed ½ of the civil penalty or fine, to any individual who furnishes information that leads to the payment of the civil penalty or criminal fine.

(B) MULTIPLE INDIVIDUALS.—If 2 or more individuals provide information described in subparagraph (A), the amount available for payment as a reward shall be divided equitably among the individuals.

(C) INELIGIBLE INDIVIDUALS.—No officer or employee of the United States, a State, or an Indian tribe who furnishes information or renders service in the performance of the official duties of the officer or employee shall be eligible for a reward payment under this subsection.

(2) PAYMENTS TO STATES OR INDIAN TRIBES.—The Commandant or the court, as the case may be, may order payment, from a civil penalty or criminal fine collected under this section, to a State or Indian tribe providing information or investigative assistance that leads to payment of the penalty or fine, of an amount that reflects the level of information or investigative assistance provided.

(3) PAYMENTS DIVIDED AMONG STATES, INDIAN TRIBES, AND INDIVIDUALS.—In a case in which a State or Indian tribe and an individual under paragraph (1) are eligible to receive a reward payment under this subsection, the Commandant or the court shall divide the amount available for the reward equitably among those recipients.

(f) LIABILITY IN REM.—A cruise vessel operated in violation of this Act or any regulation promulgated under this Act—

(1) shall be liable in rem for any civil penalty or criminal fine imposed under this section; and

(2) may be subject to a proceeding instituted in the United States district court for any district in which the cruise vessel may be found.

(g) COMPLIANCE ORDERS.—

(1) IN GENERAL.—If the Commandant determines that any person is in violation of section 4 or any regulation promulgated under this Act, the Commandant shall—

(A) issue an order requiring the person to comply with the section or requirement; or

(B) bring a civil action in accordance with subsection (b).

(2) COPIES OF ORDER, SERVICE.—

(A) CORPORATE ORDERS.—In any case in which an order under this subsection is issued to a corporation, a copy of the order shall be served on any appropriate corporate officer.

(B) METHOD OF SERVICE; SPECIFICATIONS.—An order issued under this subsection shall—

(i) be by personal service;

(ii) state with reasonable specificity the nature of the violation for which the order was issued; and

(iii) specify a deadline for compliance that is not later than—

(I) 30 days after the date of issuance of the order, in the case of a violation of an interim compliance schedule or operation and maintenance requirement; and

(II) such date as the Commandant, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements, determines to be reasonable, in the case of a violation of a final deadline.

(h) CIVIL ACTIONS.—

(1) IN GENERAL.—The Commandant may commence a civil action for appropriate relief, including a permanent or temporary injunction, for any violation for which the Commandant is authorized to issue a compliance order under this subsection.

(2) COURT OF JURISDICTION.—

(A) IN GENERAL.—A civil action under this subsection may be brought in the United

States district court for the district in which the defendant is located, resides, or is doing business.

(B) JURISDICTION.—A court described in subparagraph (A) shall have jurisdiction to grant injunctive relief to address a violation, and require compliance, by the defendant.

SEC. 10. CITIZEN SUITS.

(a) AUTHORIZATION.—Except as provided in subsection (c), any citizen may commence a civil action on his or her own behalf—

(1) against any person (including the United States and any other governmental instrumentality or agency to the extent permitted by the eleventh amendment of the Constitution) that is alleged to be in violation of—

(A) the conditions imposed by section 4;

(B) an effluent limit or management standard under this Act; or

(C) an order issued by the Administrator or Commandant with respect to such a condition, effluent limit, or performance standard; or

(2) against the Administrator or Commandant, in a case in which there is alleged a failure by the Administrator or Commandant to perform any nondiscretionary act or duty under this Act.

(b) JURISDICTION.—The United States district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties—

(1) to enforce a condition, effluent limit, performance standard, or order described in subsection (a)(1);

(2) to order the Administrator or Commandant to perform a nondiscretionary act or duty described in subsection (a)(2); and

(3) to apply any appropriate civil penalties under section 9(b).

(c) NOTICE.—No action may be commenced under this section—

(1) before the date that is 60 days after the date on which the plaintiff gives notice of the alleged violation—

(A) to the Administrator or Commandant; and

(B) to any alleged violator of the condition, limit, standard, or order; or

(2) if the Administrator or Commandant has commenced and is diligently prosecuting a civil or criminal action on the same matter in a court of the United States (but in any such action, a citizen may intervene as a matter of right).

(d) VENUE.—

(1) IN GENERAL.—Any civil action under this section shall be brought in—

(A) the United States District Court for the District of Columbia; or

(B) any other United States district court for any judicial district in which a cruise vessel or the owner or operator of a cruise vessel are located.

(2) INTERVENTION.—In a civil action under this section, the Administrator or the Commandant, if not a party, may intervene as a matter of right.

(3) PROCEDURES.—

(A) SERVICE.—In any case in which a civil action is brought under this section in a court of the United States, the plaintiff shall serve a copy of the complaint on—

(i) the Attorney General;

(ii) the Administrator; and

(iii) the Commandant.

(B) CONSENT JUDGMENTS.—No consent judgment shall be entered in a civil action under this section to which the United States is not a party before the date that is 45 days after the date of receipt of a copy of the proposed consent judgment by—

(i) the Attorney General;

(ii) the Administrator; and

(iii) the Commandant.

(e) LITIGATION COSTS.—

(1) IN GENERAL.—A court of jurisdiction, in issuing any final order in any civil action brought in accordance with this section, may award costs of litigation (including reasonable attorney's and expert witness fees) to any prevailing or substantially prevailing party, in any case in which the court determines that such an award is appropriate.

(2) SECURITY.—In any civil action under this section, the court of jurisdiction may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(f) STATUTORY OR COMMON LAW RIGHTS NOT RESTRICTED.—Nothing in this section restricts the rights of any person (or class of persons) under any statute or common law to seek enforcement or other relief (including relief against the Administrator or Commandant).

(g) CIVIL ACTION BY STATE GOVERNORS.—A Governor of a State may commence a civil action under subsection (a) of this section, without regard to the limitation under subsection (c), against the Administrator or Commandant in any case in which there is alleged a failure of the Administrator or Commandant to enforce an effluent limit or performance standard under this Act, the violation of which is causing—

(1) an adverse effect on the public health or welfare in the State; or

(2) a violation of any water quality requirement in the State.

SEC. 11. ALASKAN CRUISE VESSELS.

(a) DEFINITION OF ALASKAN CRUISE VESSEL.—In this section, the term ''Alaskan cruise vessel'' means a cruise vessel—

(1) that seasonally operates in water of or surrounding the State of Alaska;

(2) in which is installed, not later than the date of enactment of this Act (or, at the option of the Commandant, not later than September 30 of the fiscal year in which this Act is enacted), and certified by the State of Alaska for continuous discharge and operation in accordance with all applicable Federal and State law (including regulations), an advanced treatment system for the treatment and discharge of graywater and sewage; and

(3) that enters a port of the United States.

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), an Alaskan cruise vessel shall not be subject to this Act (including regulations promulgated under this Act) until the date that is 15 years after the date of enactment of this Act.

(2) EXCEPTIONS.—An Alaskan cruise vessel—

(A) shall not be subject to the minimum effluent limits prescribed under section 5(b) until the date that is 3 years after the date of enactment of this Act;

(B) shall not be subject to effluent limits promulgated under section 5(a) or 5(c) until the date that is 6 years after the date of enactment of this Act; and

(C) shall be prohibited from discharging sewage, graywater, and bilge water in the territorial sea, in accordance with this Act, as of the date of enactment of this Act.

SEC. 12. BALLAST WATER.

It is the sense of Congress that action should be taken to enact legislation requiring strong, mandatory standards for ballast water to reduce the threat of aquatic invasive species.

SEC. 13. FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commandant and the Administrator such sums as are necessary to carry out this Act for each of fiscal years 2006 through 2010.

(b) CRUISE VESSEL POLLUTION CONTROL FUND.—

(1) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account to be known as the ''Cruise Vessel Pollution Control Fund'' (referred to in this section as the ''Fund'').

(2) APPROPRIATION OF AMOUNTS.—There are appropriated to the Fund such amounts as are deposited in the Fund under subsection (c)(5).

(3) USE OF AMOUNTS IN FUND.—The Administrator and the Commandant may use amounts in the fund, without further appropriation, to carry out this Act.

(c) FEES ON CRUISE VESSELS.—

(1) IN GENERAL.—The Commandant shall establish and collect from each cruise vessel a reasonable and appropriate fee, in an amount not to exceed $10 for each paying passenger on a cruise vessel voyage, for use in carrying out this Act.

(2) ADJUSTMENT OF FEE.—

(A) IN GENERAL.—The Commandant shall biennially adjust the amount of the fee established under paragraph (1) to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor during each 2-year period.

(B) ROUNDING.—The Commandant may round the adjustment in subparagraph (A) to the nearest 1/10 of a dollar.

(3) FACTORS IN ESTABLISHING FEES.—

(A) IN GENERAL.—In establishing fees under paragraph (1), the Commandant may establish lower levels of fees and the maximum amount of fees for certain classes of cruise vessels based on—

(i) size;

(ii) economic share; and

(iii) such other factors as are determined to be appropriate by the Commandant and Administrator.

(B) FEE SCHEDULES.—Any fee schedule established under paragraph (1), including the level of fees and the maximum amount of fees, shall take into account—

(i) cruise vessel routes;

(ii) the frequency of stops at ports of call by cruise vessels; and

(iii) other relevant considerations.

(4) COLLECTION OF FEES.—A fee established under paragraph (1) shall be collected by the Commandant from the owner or operator of each cruise vessel to which this Act applies.

(5) DEPOSITS TO FUND.—Notwithstanding any other provision of law, all fees collected under this subsection, and all penalties and payments collected for violations of this Act, shall be deposited into the Fund.

SEC. 14. EFFECT ON OTHER LAW.

(a) UNITED STATES.—Nothing in this Act restricts, affects, or amends any other law or the authority of any department, instrumentality, or agency of the United States.

(b) STATES AND INTERSTATE AGENCIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this Act precludes or denies the right of any State (including a political subdivision of a State) or interstate agency to adopt or enforce—

(A) any standard or limit relating to the discharge of pollutants by cruise ships; or

(B) any requirement relating to the control or abatement of pollution.

(2) EXCEPTION.—If an effluent limit, performance standard, water quality standard, or any other prohibition or limitation is in effect under Federal law, a State (including a political subdivision of a State) or interstate agency described in paragraph (1) may not adopt or enforce any effluent limit, performance standard, water quality standard, or any other prohibition that—

(A) is less stringent than the effluent limit, performance standard, water quality standard, or other prohibition or limitation under this Act; or

(B) impairs or in any manner affects any right or jurisdiction of the State with respect to the waters of the State.

By Mr. HARKIN:

S. 794. A bill to amend title 23, United States Code, to improve the safety of nonmotorized transportation, including bicycle and pedestrian safety; to the Committee on Commerce, Science, and Transportation.

By Mr. HARKIN. Mr. President, I am pleased to introduce the ''Safe and Complete Streets Act of 2005.''

This legislation helps put this Nation on the path to a safer and, importantly, healthier America, by making some very modest adjustments in how State transportation departments and regional and local transportation agencies address the safety needs of pedestrians and bicyclists.

This proposal is being introduced today to ensure greater attention to the ''SAFETEA'' elements of the surface transportation renewal bill that will come before the Senate in the coming weeks. With some selected, but modest, adjustments to this surface transportation legislation, we can improve the safety of pedestrians and bicyclists. And with that improved safety, we make it easier for Americans to walk and use bicycles to meet their transportation needs, whether to work, for errands or for simple exercise and enjoyment.

Currently, safety concerns reduce the comfort of many people to move by foot and bicycle. Many roadways simply do not have sidewalks. And it is a particular problem for our growing elderly population. In many cases, the timing of lights makes it difficult for the elderly and those with a disability to simply get from one side of a busy intersection to another.

There is clearly a need for further progress in this area. Consider that nearly 52,000 pedestrians and more than 7,400 bicyclists were killed in the most recent 10-year period, ending 2003. And, we know that many of these deaths, and thousands of more injuries, are avoidable, if we commit ourselves to doing those things that make a difference.

This bill proposes three important changes to current law. First, it insists that Federal, State and local agencies receiving billions of dollars in federal transportation funds modernize their processes—how they plan, what they study and how they lead—so that the safety of pedestrians and bicyclists are more fully considered. Second, it ensures that investments we make today don't add to the problems we already have, which is the burden of retrofitting and reengineering existing transportation networks because we forgot about pedestrians and bicyclists. Finally, it commits additional resources to a national priority need—getting our children to schools safely on foot and bicycles through a stronger funding commitment to Safe Routes to School.

The Senate will soon take up a surface transportation renewal plan that already includes key provisions to help us make further progress on the safety needs of nonmotorized travelers. The ''Safe and Complete Streets Act of 2005'' is specifically designed and developed to complement the efforts in the committee passed measure. Only in two areas, pertaining to the Safe Routes to School initiative and a small nonmotorized pilot program, does this legislation propose any additional funding commitments. All other aspects of the legislation before you today build upon existing commitments and existing features of current law.

Let me speak briefly to the issues of the Safe Routes to School program specifically. This legislation proposes to raise the Senate's commitment to increased safety for our school age kids by slightly more than $100 million annually over the level in the surface transportation bill that the Senate will soon consider.

I am proposing this modest increase in spending because there is a crtical need for us to accelerate what we are doing to protect our most exposed citizens, our school age children. This Nation has spent the last two generations getting kids into cars and buses, rather than on foot or bicycles.

Now, we are reaping the harvest. Billions more in added transportation costs for our schools districts to bus our kids to schools. Added congestion on our roadways as families transport their kids to school by I private automobile, clogging traffic at the worst time possible, during the morning commute. In Marin County, CA, a pilot program has demonstrated substantial success in reducing congestion by shifting children to walking and riding their bikes to school.

In addition, we see rising obesity in our children and looming public health challenges over the next several generations, and even shortened life expectancy. We need to promote walking for both health and transportation purposes.

The ''Safe and Complete Streets Act of 2005'' will not only promote the safety of pedestrians and bicyclists, it also will provide benefits to society from smarter use of tax dollars, and by focusing on safety first. I urge my Senate colleagues to join with me in supporting this important legislation.

I am pleased to announce that it has the support of the following eleven national organizations: AARP, American Bikes, American Heart Association, American Public Health Association, American Society of Landscape Architects, American Planning Association, League of American Bicyclists, National Center for Bicycling & Walking, Paralyzed Veterans of America, Rail-to-Trails Conservancy and the Surface Transportation Policy Project.

By Mr. DODD (for himself and Mr. WARNER):

S. 795, A bill to provide driver safety grants to States with graduated driver licensing laws that meet certain minimum requirements; to the Committee on Environment and Public Works.

Mr. DODD. Mr. President, I rise with my colleague from Virginia, Senator WARNER, to introduce the Safe Teen and Novice Driver Uniform Protection (STAND UP) Act of 2005—an important piece of legislation that seeks to protect and ensure the lives of the 20 million teenage drivers in our country.

We all know that the teenage years represent an important formative stage in a person's life. They are a bridge between childhood and adulthood—the transitional and often challenging period during which a person will first gain an inner awareness of his or her identity. The teenage years encompass a time for discovery, a time for growth, and a time for gaining independence—all of which ultimately help boys and girls transition successfully into young men and women.

As we also know, the teenage years also encompass a time for risk-taking. A groundbreaking study to be published soon by the National Institutes of Health concludes that the frontal lobe region of the brain which inhibits risky behavior is not fully formed until the age of 25. In my view, this important report implies that we approach teenagers' behavior with a new sensitivity. It also implies that we have a societal obligation to steer teenagers towards positive risk-taking that fosters further growth and development and away from negative risk-taking that has an adverse effect on their well-being and the well-being of others.

Unfortunately, we see all too often this negative risk-taking in teenagers when they are behind the wheel of a motor vehicle. We see all too often how this risk-taking needlessly endangers the life of a teenage driver, his or her passengers, and other drivers on the road. And we see all too often the tragic results of this risk-taking when irresponsible and reckless behavior behind the wheel of a motor vehicle causes severe harm and death.

According to the National Transportation Safety Board, motor vehicle crashes are the leading cause of death for Americans between 15 and 20 years of age. In 2002, teenage drivers, who constituted only 6.4 percent of all drivers, were involved in 14.3 percent of all fatal motor vehicle crashes. In 2003, 5,691 teenage drivers were killed in motor vehicle crashes and 300,000 teenage drivers suffered injuries in motor vehicle crashes.

The National Highway Traffic Safety Administration reports that teenage drivers have a fatality rate that is four times higher than the average fatality rate for drivers between 25 and 70 years of age. Furthermore, teenage drivers who are 16 years of age have a motor vehicle crash rate that is almost ten times the crash rate for drivers between the ages of 30 and 60.

Finally, the Insurance Institute for Highway Safety concludes that the chance of a crash by a driver either 16

or 17 years of age is doubled if there are two peers in the motor vehicle and quadrupled with three or more peers in the vehicle.

Crashes involving teenage injuries or fatalities are often highprofile tragedies in the area where they occur. However, when taken together, these individual tragedies speak to a national problem clearly illustrated by the staggering statistics I just mentioned. It is a problem that adversely affects teenage drivers, their passengers, and literally everyone else who operates or rides in a motor vehicle. Clearly, more work must be done to design and implement innovative methods that educate our young drivers on the awesome responsibilities that are associated with operating a motor vehicle safely.

One such method involves implementing and enforcing a graduated driver's license system, or a GDL system. Under a typical GDL system, a teenage driver passes through several sequential learning stages before earning the full privileges associated with an unrestricted driver's license. Each learning stage is designed to teach a teenage driver fundamental lessons on driver operations, responsibilities, and safety. Each stage also imposes certain restrictions, such as curfews on nighttime driving and limitations on passengers, that further ensure the safety of the teenage driver, his or her passengers, and other motorists.

First implemented over ten years ago, three-stage GDL systems now exist in 38 States. Furthermore, every State in the country has adopted at least one driving restriction for new teenage drivers. Several studies have concluded that GDL systems and other license restriction measures have been linked to an overall reduction on the number of teenage driver crashes and fatalities. In 1997, in the first full year that its GDL system was in effect, Florida experienced a 9 percent reduction in fatal and injurious motor vehicle crashes among teenage drivers between 15 and 18 years of age. After GDL systems were implemented in Michigan and North Carolina in 1997, the number of motor vehicle crashes involving teenage drivers 16 years in age decreased in each State by 25 percent and 27 percent, respectively. And in California, the numbers of teenage passenger deaths and injuries in crashes involving teenage drivers 16 years in age decreased by 40 percent between 1998 and 2000, the first three years that California's GDL system was in effect. The number of ''at-fault'' crashes involving teenage drivers decreased by 24 percent during the same period.

These statistics are promising and clearly show that many States are taking an important first step towards addressing this enormous problem concerning teenage driver safety. However, there is currently no uniformity between States with regards to GDL system requirements and other novice driver license restrictions. Some States have very strong initiatives in place that promote safe teenage driving while others have very weak initiatives in place. Given how many teenagers are killed or injured in motor vehicle crashes each year, and given how many other motorists and passengers are killed or injured in motor vehicle crashes involving teenage drivers each year, Senator Warner and I believe that the time has come for an initiative that sets a national minimum safety standard for teen driving laws while giving each State the flexibility to set additional standards that meet the more specific needs of its teenage driver population. The bill that Senator Warner and I are introducing today—the STANDUP Act—is such an initiative. There are four principal components of this legislation about which I would like to discuss.

First, The STANDUP Act mandates that all States implement a national minimum safety standard for teenage drivers that contains three core requirements recommended by the National Transportation Safety Board. These requirements include implementing a three-stage GDL system, implementing at least some prohibition on nighttime driving, and placing a restriction on the number of passengers without adult supervision.

Second, the STANDUP Act directs the Secretary of Transportation to issue voluntary guidelines beyond the three core requirements that encourage States to adopt additional standards that improve the safety of teenage driving. These additional standards may include requiring that the learner's permit and intermediate stages be six months each, requiring at least 30 hours of behind-the-wheel driving for a novice driver in the learner's permit stage in the company of a licensed driver who is over 21 years of age, requiring a novice driver in the learner's permit stage to be accompanied and supervised by a licensed driver 21 years of age or older at all times when the novice driver is operating a motor vehicle, and requiring that the granting of an unrestricted driver's license be delayed automatically to any novice driver in the learner's permit or intermediate stages who commits a motor vehicle offense, such as driving while intoxicated, misrepresenting his or her true age, reckless driving, speeding, or driving without a fastened seatbelt.

Third, the STANDUP Act provides incentive grants to States that come into compliance within three fiscal years. Calculated on a State's annual share of the Highway Trust Fund, these incentive grants could be used for activities such as training law enforcement and relevant State agency personnel in the GDL law or publishing relevant educational materials on the GDL law.

Finally, the STANDUP Act calls for sanctions to be imposed on States that do not come into compliance after three fiscal years. The bill withholds 1.5 percent of a State's Federal highway share after the first fiscal year of non-compliance, three percent after the second fiscal year, and six percent after the third fiscal year. The bill does allow a State to reclaim any withheld funds if that State comes into compliance within two fiscal years after the first fiscal year of non-compliance.

There are those who will say that the STAND UP Act infringes on States' rights. I respectfully disagree. I believe that working to protect and ensure the lives and safety of the millions of teenage drivers, their passengers, and other motorists in this country is national in scope and a job that is rightly suited for Congress. I also believe that the number of motor vehicle deaths and injuries associated with teenage drivers each year compels us to address this important national issue today and not tomorrow.

The teenage driving provisions within the STANDUP Act are both well-known and popular with the American public. A Harris Poll conducted in 2001 found that 95 percent of Americans support a requirement of 30 to 50 hours of practice driving within an adult, 92 percent of Americans support a six-month learner's permit stage, 74 percent of Americans support limiting the number of teen passengers in a motor vehicle with a teen driver, and 74 percent of Americans also support supervised or restricted driving during high-risk periods such as nighttime. Clearly, these numbers show that teen driving safety is an issue that transcends party politics and is strongly embraced by a solid majority of Americans. Therefore, I ask my colleagues today to join Senator Warner and myself in protecting the lives of our teenagers and in supporting this important legislation.

I ask unanimous consent that the text of this legislation be printed in the RECORD.

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

S. 795

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Safe Teen and Novice Driver Uniform Protection Act of 2005'' or the ''STANDUP Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The National Transportation Safety Board has reported that—

(A) in 2002, teen drivers, which constituted only 6.4 percent of all drivers, were involved in 14.3 percent of all fatal motor vehicle crashes;

(B) motor vehicle crashes are the leading cause of death for Americans between 15 and 20 years of age;

(C) between 1994 and 2003, almost 64,000 Americans between 15 and 20 years of age died in motor vehicle crashes, an average of 122 per week; and

(D) in 2003—

(i) 3,657 American drivers between 15 and 20 years of age were killed in motor vehicle crashes;

(ii) 300,000 Americans between 15 and 20 years of age were injured in motor vehicle crashes; and

(iii) 7,884 American drivers between 15 and 20 years of age were involved in fatal crashes, resulting in 9,088 total fatalities, a 5 percent increase since 1993.

(2) Though only 20 percent of driving by young drivers occurs at night, over 50 percent of the motor vehicle crash fatalities involving young drivers occur at night.

(3) The National Highway Traffic Safety Administration has reported that—

(A) 6,300,000 motor vehicle crashes claimed the lives of nearly 43,000 Americans in 2003 and injured almost 3,000,000 more Americans;

(B) teen drivers between 16 and 20 years of age have a fatality rate that is 4 times the rate for drivers between 25 and 70 years of age; and

(C) drivers who are 16 years of age have a motor vehicle crash rate that is almost ten times the crash rate for drivers aged between 30 and 60 years of age.

(4) According to the Insurance Institute for Highway Safety, the chance of a crash by a 16- or 17-year-old driver is doubled if there are 2 peers in the vehicle and quadrupled with 3 or more peers in the vehicle.

(5) In 1997, the first full year of its graduated driver licensing system, Florida experienced a 9 percent reduction in fatal and injurious crashes among young drivers between the ages of 15 and 18, compared with 1995, according the Insurance Institute for Highway Safety.

(6) The Journal of the American Medical Association reports that crashes involving 16-year-old drivers decreased between 1995 and 1999 by 25 percent in Michigan and 27 percent in North Carolina. Comprehensive graduated driver licensing systems were implemented in 1997 in these States.

(7) In California, according to the Automobile Club of Southern California, teenage passenger deaths and injuries resulting from crashes involving 16-year-old drivers declined by 40 percent from 1998 to 2000, the first 3 years of California's graduated driver licensing program. The number of at-fault collisions involving 16-year-old drivers decreased by 24 percent during the same period.

(8) The National Transportation Safety Board reports that 39 States and the District of Columbia have implemented 3-stage graduated driver licensing systems. Many States have not yet implemented these and other basic safety features of graduated driver licensing laws to protect the lives of teenage and novice drivers.

(9) A 2001 Harris Poll indicates that—

(A) 95 percent of Americans support a requirement of 30 to 50 hours of practice driving with an adult;

(B) 92 percent of Americans support a 6-month learner's permit period; and

(C) 74 percent of Americans support limiting the number of teen passengers in a car with a teen driver and supervised driving during high-risk driving periods, such as night.

SEC. 3. STATE GRADUATED DRIVER LICENSING LAWS.

(a) MINIMUM REQUIREMENTS.—A State is in compliance with this section if the State has a graduated driver licensing law that includes, for novice drivers under the age of 21—

(1) a 3-stage licensing process, including a learner's permit stage and an intermediate stage before granting an unrestricted driver's license;

(2) a prohibition on nighttime driving during the learner's permit and intermediate stages;

(3) a prohibition, during the learner's permit intermediate stages, from operating a motor vehicle with more than 1 non-familial passenger under the age of 21 if there is no licensed driver 21 years of age or older present in the motor vehicle; and

(4) any other requirement that the Secretary of Transportation (referred to in this Act as the ''Secretary'') may require, including—

(A) a learner's permit stage of at least 6 months;

(B) an intermediate stage of at least 6 months;

(C) for novice drivers in the learner's permit stage—

(i) a requirement of at least 30 hours of behind-the-wheel training with a licensed driver who is over 21 years of age; and

(ii) a requirement that any such driver be accompanied and supervised by a licensed driver 21 years of age or older at all times when such driver is operating a motor vehicle; and

(D) a requirement that the grant of full licensure be automatically delayed, in addition to any other penalties imposed by State law for any individual who, while holding a provisional license, convicted of an offense, such as driving while intoxicated, misrepresentation of their true age, reckless driving, unbelted driving, speeding, or other violations, as determined by the Secretary.

(b) RULEMAKING.—After public notice and comment rulemaking the Secretary shall issue regulations necessary to implement this section.

SEC. 4. INCENTIVE GRANTS.

(a) IN GENERAL.—For each of the first 3 fiscal years following the date of enactment of this Act, the Secretary shall award a grant to any State in compliance with section 3(a) on or before the first day of that fiscal year that submits an application under subsection (b).

(b) APPLICATION.—Any State desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including a certification by the governor of the State that the State is in compliance with section 3(a).

(c) GRANTS.—For each fiscal year described in subsection (a), amounts appropriated to carry out this section shall be apportioned to each State in compliance with section 3(a) in an amount determined by multiplying—

(1) the amount appropriated to carry out this section for such fiscal year; by

(2) the ratio that the amount of funds apportioned to each such State for such fiscal year under section 402 of title 23, United States Code, bears to the total amount of funds apportioned to all such States for such fiscal year under such section 402.

(d) USE OF FUNDS.—Amounts received under a grant under this section shall be used for—

(1) enforcement and providing training regarding the State graduated driver licensing law to law enforcement personnel and other relevant State agency personnel;

(2) publishing relevant educational materials that pertain directly or indirectly to the State graduated driver licensing law; and

(3) other administrative activities that the Secretary considers relevant to the State graduated driver licensing law.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $25,000,000 for each of the fiscal years 2005 through 2009.

SEC. 5. WITHHOLDING OF FUNDS FOR NON-COMPLIANCE.

(a) IN GENERAL.—

(1) FISCAL YEAR 2010.—The Secretary shall withhold 1.5 percent of the amount otherwise required to be apportioned to any State for fiscal year 2010 under each of the paragraphs (1), (3), and (4) of section 104(b) of title 23, United States Code, if that State is not in compliance with section 3(a) of this Act on October 1, 2009.

(2) FISCAL YEAR 2011.—The Secretary shall withhold 3 percent of the amount otherwise required to be apportioned to any State for fiscal year 2011 under each of the paragraphs (1), (3), and (4) of section 104(b) of title 23, United States Code, if that State is not in compliance with section 3(a) of this Act on October 1, 2010.

(3) FISCAL YEAR 2012 AND THEREAFTER.—The Secretary shall withhold 6 percent of the amount otherwise required to be apportioned to any State for each fiscal year beginning with fiscal year 2012 under each of the paragraphs (1), (3), and (4) of section 104(b) of title 23, United States Code, if that State is not in compliance with section 3(a) of this Act on the first day of such fiscal year.

(b) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—

(1) FUNDS WITHHELD ON OR BEFORE SEPTEMBER 30, 2011.—Any amount withheld from any State under subsection (a) on or before September 30, 2011, shall remain available for distribution to the State under subsection (c) until the end of the third fiscal year following the fiscal year for which such amount is appropriated.

(2) FUNDS WITHHELD AFTER SEPTEMBER 30, 2011.—Any amount withheld under subsection (a)(2) from any State after September 30, 2011, may not be distributed to the State.

(c) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—

(1) IN GENERAL.—If, before the last day of the period for which funds withheld under subsection (a) are to remain available to a State under subsection (b), the State comes into compliance with section 3(a), the Secretary shall, on the first day on which the State comes into compliance, distribute to the State any amounts withheld under subsection (a) that remains available for apportionment to the State.

(2) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—Any amount distributed under paragraph (1) shall remain available for expenditure by the State until the end of the third fiscal year for which the funds are so apportioned. Any amount not expended by the State by the end of such period shall revert back to the Treasury of the United States.

(3) EFFECT OF NON-COMPLIANCE.—If a State is not in compliance with section 3(a) at the end of the period for which any amount withheld under subsection (a) remains available for distribution to the State under subsection (b), such amount shall revert back to the Treasury of the United States.

By Ms. MURKOWSKI:

S. 796. A bill to amend the National Aquaculture Act of 1980 to prohibit the issuance of permits for marine aquaculture facilities until requirements for such permits are enacted into law; to the Committee on Agriculture, Nutrition, and Forestry.

Ms. MURKOWSKI. Mr. President. I am today reintroducing a very important bill on a subject that was not resolved last year, and which continues to be an outstanding issue for those of us who are dependent on healthy and productive natural populations of ocean fish and shellfish.

Simply put, this bill prohibits further movement toward the development of aquaculture facilities in federal waters until Congress has had an opportunity to review all of the very

serious implications, and make decisions on how such development should proceed.

Some people are calling for a moratorium on offshore aquaculture. Frankly, Mr. President, we need more than a delay—we need a very comprehensive discussion of this issue and a serious debate on what the ground-rules should be.

For years, some members of the federal bureaucracy have advocated going forward with offshore aquaculture development without that debate. Doing so, would be an extraordinarily bad idea.

We are now being told that the Administration is in the final stages of preparing a draft bill to allow offshore aquaculture development to occur, and that it plans to send a draft to the Hill in the very near future. The problem is, that draft has been prepared in deep secrecy. We have only rumors about what may be in that draft bill. The administration has had meetings on the general topic of aquaculture, but has done little to nothing to work with those of us who represent constituents whose livelihoods might be imperiled and states with resources that might be endangered if the administration gets it wrong.

Scientists, the media and the public are awakening to the serious disadvantages of fish raised in fish farming operations compared to naturally healthy wild fish species such as Alaska salmon, halibut, sablefish, crab and many other species.

It has become common to see news reports that cite not only the general health advantages of eating fish at least once or twice a week, but the specific advantages of fish such as wild salmon, which contains essential Omega-3 fatty acids that may help reduce the risk of heart disease and possibly have similar beneficial effects on other diseases.

Educated and watchful consumers have also seen recent stories citing research that not only demonstrates that farmed salmon fed vegetable-based food does not have the same beneficial impact on cardio-vascular health, but also that the demand for other fish to grind up and use as feed in those fish farms may lead to the decimation of those stocks.

Those same alert consumers may also have seen stories indicating that fish farms may create serious pollution problems from the concentration of fish feces and uneaten food, that fish farms may harbor diseases that can be transmitted to previously healthy wild fish stocks, and that fish farming has had a devastating effect on communities that depend on traditional fisheries.

It is by no means certain that all those problems would be duplicated if we begin to develop fish farms that are farther offshore, but neither is there any evidence that they would not be. Yet despite the uncertainties, proponents have continued to push hard for legislation that would encourage the development of huge new fish farms off our coasts.

Not only do the proponents want to encourage such development, but reports indicate they may also want to change the way decisions are made so that all the authority rests in the hands of just one federal agency. I believe that would be a serious mistake. There are simply too many factors that should be evaluated—from hydraulic engineering, to environmental impacts, to fish biology, to the management of disease, to the nutritional character of farmed fish, and so on—for any existing agency.

We cannot afford a rush to judgment on this issue—it is far too dangerous if we make a mistake. In my view, such a serious matter deserves the same level of scrutiny by Congress as the recommendations of the U.S. Commission on Ocean Policy for other sweeping changes in ocean governance.

The ''Natural Stock Conservation Act'' I am introducing today lays down a marker for where the debate on offshore aquaculture needs to go. It would prohibit the development of new offshore aquaculture operations until Congress has acted to ensure that every federal agency involved does the necessary analyses in areas such as disease control, engineering, pollution prevention, biological and genetic impacts, economic and social effects, and other critical issues, none of which are specifically required under existing law.

I strongly urge my colleagues to understand that this is not a parochial issue, but a very real threat to the literal viability of natural fish and shellfish stocks as well as the economic viability of many coastal communities.

I sincerely hope that this issue is taken up seriously in the context of reauthorizing the Magnuson-Stevens Act, which governs fishery management, and responding to the recommendations of the U.S. Oceans Commission and the Pew Oceans Commission.

We all want to make sure we enjoy abundant supplies of healthy foods in the future, but not if it means unnecessary and avoidable damage to wild species, to the environment generally, and to the economies of America's coastal fishing communities.

I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 796

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Natural Stock Conservation Act of 2005''.

SEC. 2. PROHIBITION ON PERMITS FOR AQUACULTURE.

The National Aquaculture Act of 1980 (16 D.S.C. 2801 et seq.) is amended—

(1) by redesignating sections 10 and 11 as sections 11 and 12 respectively; and S.L.C.

(2) by inserting after section 9 the following new section:

PROHIBITION ON PERMITS FOR AQUACULTURE

''SEC. 10. (a) IN GENERAL.—The head of an agency with jurisdiction to regulate aquaculture may not issue a permit or license to permit an aquaculture facility located in the exclusive economic zone to operate until after the date on which a bill is enacted into law that—

''(1) sets out the type and specificity of the analyses that the head of an agency with jurisdiction to regulate aquaculture shall carry out prior to issuing any such permit or license, including analyses related to—

''(A) disease control;

''(B) structural engineering;

''(C) pollution;

''(D) biological and genetic impacts;

''(E) access and transportation;

''(F) food safety; and

''(G) social and economic impacts of such facility on other marine activities, including commercial and recreational fishing; and

''(2) requires that a decision to issue such a permit or license be—

''(A) made only after the head of the agency that issues such license or permit consults with the Governor of each State located within a 200-mile radius of the aquaculture facility; and

''(B) approved by the regional fishery management council that is granted authority under title III of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851 et seq.) over a fishery in the region where the aquaculture facility will be located.

''(b) DEFINITIONS.—In this section:

''(1) AGENCY WITH JURISDICTION TO REGULATE AQUACULTURE.—The term 'agency with jurisdiction to regulate aquaculture' means each agency and department of the United States, as follows:

''(A) The Department of Agriculture.

''(B) The Coast Guard.

''(C) The Department of Commerce.

''(D) The Environmental Protection Agency.

''(E) The Department of the Interior.

''(F) The U.S. Army Corps of Engineers.

''(2) EXCLUSIVE ECONOMIC ZONE.—The term 'exclusive ecoriomic zone' has the meaning given that term in section 3 of the of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802).

''(3) Regional fishery management council.—The term 'regional fishery management council' means a regional fishery management council established under section 302(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)).''.

By Ms. MURKOWSKI (for herself and Mr. STEVENS):

S. 797. A bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to clarify the status of certain communities in the western Alaska community development quota program; to the Committee on Commerce, Science, and Transportation.

Ms. MURKOWSKI. Mr. President, I am today reintroducing legislation to clarify the status of villages participating in the federally established Community Development Quota (CDQ) program created to assist economically disadvantaged communities around the edge of the Bering Sea.

The CDQ program is one of the youngest but most successful of a variety of programs intended to improve economic opportunities in some of my State's most challenged communities.

The CDQ Community Preservation Act is intended to maintain the participation of all currently eligible communities along the shore of the Bering Sea in Alaska's Community Development Quota program. It is necessary because inconsistencies in statutory and regulatory provisions may require a reassessment of eligibility and the exclusion of some communities from the program. This was not the intent of the original program, nor of any subsequent changes to it. In order to clarify that fact, a legislative remedy is needed.

Senator STEVENS joined me in introducing just such a remedy last year, but work on it was not completed and we were forced to settle for only temporary relief. It is time we dealt with this matter more appropriately.

Alaska has been generously blessed with natural resources, but due to its location and limited transportation infrastructure it continues to have pockets of severe poverty. Nowhere is this more evident than in the villages around the rim of the Bering Sea.

The Community Development Quota Program began in 1992, at the recommendation of the North Pacific Fishery Management Council, one of the regional councils formed under the Magnuson-Stevens Fishery Conservation and Management Act. Congress gave the program permanent status in the 1996 reauthorization of the Act. The program presently includes 65 communities within a 50 nautical-mile radius of the Bering Sea, which have formed six regional non-profit associations to participate in the program. The regional associations range in size from one to 20 communities. Under the program, a portion of the regulated annual harvests of pollock, halibut, sablefish, Atka mackerel, Pacific cod, and crab is assigned to each of the associations, which operate under combined Federal and State agency oversight. Almost all of an association's earnings must be invested in fishing-related projects in order to encourage a sustainable economic base for the region.

Typically, each association sells its share of the annual harvest quotas to established fishing companies in return for cash and agreements to provide job training and employment opportunities for residents of the region. The program has been remarkably successful.

Since 1992, approximately 9,000 jobs have been created for western Alaska residents with wages totaling more than $60 million. The CDQ program has also contributed to fisheries infrastructure development in western Alaska, as well as providing vessel loan programs; education, training and other CDQ-related benefits.

The CDQ program has its roots in the amazing success story of how our offshore fishery resources were Americanized after the passage of the original Magnuson Act in 1976. At the time, vast foreign fishing fleets were almost the only ones operating in the U.S. 200-mile Exclusive Economic Zone. American fishermen simply did not have either the vessels or the expertise to participate.

The Magnuson-Stevens Act changed all that. It led to the adoption of what we called a ''fish and chips'' policy that provided for an exchange of fish allocations for technological and practical expertise. Within the next few years, harvesting fell almost exclusively to American vessels. Within a few years after that, processing also became Americanized. Today, there are no foreign fishing or processing vessels operating in the 200-mile zone off Alaska, and the industry is worth billions of dollars each year.

The CDQ program helps bring some of the benefits of that great industry to local residents in one of the most impoverished areas of the entire country. It is a vital element in the effort to create and maintain a lasting economic base for the region's many poor communities, and truly deserves the support of this body.

I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 797

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''CDQ Community Preservation Act''.

SEC. 2. WESTERN ALASKA COMMUNITY DEVELOPMENT QUOTA PROGRAM.

(a) ELIGIBLE COMMUNITIES.—Section 305(i)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1855(i)) is amended adding at the end the following:

''(E) A community shall be eligible to participate in the western Alaska community development quota program under subparagraph (A) if the community was—

''(i) listed in table 7 to part 679 of title 50, Code of Federal Regulations, as in effect on January 1, 2004; or

''(ii) approved by the National Marine Fisheries Service on April 19, 1999.''.

(b) CONFORMING AMENDMENT.—Such section is further amended, in paragraph (B), by striking ''To'' and inserting, ''Except as provided in subparagraph (E), to''.

By Mr. FEINGOLD (for himself, Mr. CORZINE, Mr. DAYTON, Mr. DURBIN, Mr. LAUTENBERG, Ms. MIKULSKI, and Mrs. MURRAY):

S. 798. A bill to amend the Family and Medical Leave Act of 1993 and title 5, United States Code, to provide entitlement to leave to eligible employees whose spouse, son, daughter, or parent is a member of the Armed Forces who is serving on active duty in support of a contingency operation or who is notified of an impending call or order to active duty in support of a contingency operation, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. FEINGOLD. Mr. President, today I introduce legislation on behalf of myself and Senators CORZINE, DAYTON, DURBIN, LAUTENBERG, MIKULSKI, and MURRAY, that would bring a small measure of relief to the families of our brave military personnel who are being deployed for the ongoing fight against terrorism, the war in Iraq, and other missions in this country and around the world. It is legislation that the Senate adopted unanimously when I offered it as an amendment to the fiscal year 2004 Iraq supplemental spending bill and I think it would be very fitting for my colleagues to join me in supporting this measure again during this, the National Month of the Military Child.

The men and women of our Armed Forces undertake enormous sacrifices in their service to our country. They spend time away from home and from their families in different parts of the country and different parts of the world and are placed into harm's way in order to protect the American people and our way of life. We owe them a huge debt of gratitude for their dedicated service.

The ongoing deployments for the fight against terrorism and for the campaign in Iraq are turning upside down the lives of thousands of active duty, National Guard, and Reserve personnel and their families as they seek to do their duty to their country and honor their commitments to their families, and, in the case of the reserve components, to their employers as well. Today, there are more than 180,000 National Guard and Reserve personnel on active duty.

Some of my constituents are facing the latest in a series of activations and deployments for family members who serve our country in the military. Others are seeing their loved ones off on their first deployment. All of these families share in the worry and concern about what awaits their relatives and hope, as we do, for their swift and safe return.

Many of those deployed in Iraq have had their tours extended beyond the time they had expected to stay. This extension has played havoc with the lives of those deployed and their families. Worried mothers, fathers, spouses, and children expecting their loved ones home after more than a year of service have been forced to wait another three or four months before their loved ones' much-anticipated homecoming. The emotional toll is huge. So is the impact on a family's daily functioning as bills still need to be paid, children need to get to school events, and sick family members must still be cared for.

Our men and women in uniform face these challenges without complaint. But we should do more to help them and their families with the many things that preparing to be deployed requires.

During the first round of mobilizations for operations in Afghanistan and Iraq, military personnel and their families were given only a couple of days' notice that their units would be deployed. As a result, these dedicated

men and women had only a very limited amount of time to get their lives in order. For members of the National Guard and Reserve, this included informing their employers of the deployment. I want to commend the many employers around the country for their understanding and support when their employees were called to active duty.

In preparation for a deployment, military families often have to scramble to arrange for child care, to pay bills, to contact their landlords or mortgage companies, and to take care of other things that we deal with on a daily basis.

The legislation I introduce today would allow eligible employees whose spouses, parents, sons, or daughters are military personnel who are serving on or called to active duty in support of a contingency operation to use their Family and Medical Leave Act (FMLA) benefits for issues directly relating to or resulting from that deployment. These instances could include preparation for deployment or additional responsibilities that family members take on as a result of a loved one's deployment, such as child care.

But don't just take my word for it. Here is what the National Military Family Association has to say in a letter of support:

(The National Military Family Association) has heard from many families about the difficulty of balancing family obligations with job requirements when a close family member is deployed. Suddenly, they are single parents or, in the case of grandparents, assuming the new responsibility of caring for grandchildren. The days leading up to a deployment can be filled with pre-deployment briefings and putting legal affairs in order.

In that same letter, the National Military Family Association states that, ''Military families, especially those of deployed service members, are called upon to make extraordinary sacrifices. (The Military Families Leave Act) offers families some breathing room as they adjust to this time of separation.''

On July 21, 2004, then-Governor Joseph Kernan of Indiana testified before a joint hearing of the Senate Health, Labor, Education, and Pensions and Armed Services committees that Congress should revise FMLA to include activated National Guard families, as recommended by the National Governors' Association. The legislation I introduce today would give many military families some of the assistance Governor Kernan spoke of.

Let me make sure there is no confusion about what this legislation does and does not do. This legislation does not expand eligibility for FMLA to employees not already covered by FMLA. It does not expand FMLA eligibility to active duty military personnel. It simply allows those already covered by FMLA to use those benefits in one additional set of circumstances—to deal with issues directly related to or resulting from the deployment of a family member.

I was proud to cosponsor and vote for the legislation that created the landmark Family and Medical Leave Act (FMLA) during the early days of my service to the people of Wisconsin as a member of this body. This important legislation allows eligible workers to take up to 12 weeks of unpaid leave per year for the birth or adoption of child, the placement of a foster child, to care for a newborn or newly adopted child or newly placed foster child, or to care for their own serious health condition or that of a spouse, a parent, or a child. Some employers offer a portion of this time as paid leave in addition to other accrued leave, while others allow workers to use accrued vacation or sick leave for this purpose prior to going on unpaid leave.

Since its enactment in 1993, the FMLA has helped more than 35 million American workers to balance responsibilities to their families and their jobs. According to the Congressional Research Service, between 2.2 million and 6.1 million people took advantage of these benefits in 1999-2000.

Our military families sacrifice a great deal. Active duty families often move every couple of years due to transfers and new assignments. The twelve years since FMLA' s enactment has also been a time where we as a country have relied more heavily on National Guard and Reserve personnel for more and more deployments of longer and longer duration. The growing burden on these service members' families must be addressed, and this legislation is one way to do so.

This legislation has the support of a number of organizations, including the Wisconsin National Guard, the Military Officers Association of America, the Enlisted Association of the National Guard of the United States, the Reserve Enlisted Association, the Reserve Officers Association, the National Military Family Association, the National Council on Family Relations, and the National Partnership for Women and Families. The Military Coalition, an umbrella organization of 31 prominent military organizations, specified this legislation as one of five meriting special consideration during the fiscal year 2004 Iraq supplemental debate.

We owe it to our military personnel and their families to do all we can to support them in this difficult time. I hope that this legislation will bring a small measure of relief to our military families and I urge my colleagues to support it.

I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 798

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Military Families Leave Act of 2005''.

SEC. 2. LEAVE FOR MILITARY FAMILIES UNDER THE FAMILY AND MEDICAL LEAVE ACT OF 1993.

(a) ENTITLEMENT TO LEAVE.—Section 102(a)(1) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)(1)) is amended by adding at the end the following new subparagraph:

''(E) Because of any qualifying exigency (as the Secretary may by regulation determine) arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.''.

(b) INTERMITTENT OR REDUCED LEAVE SCHEDULE.—Section 102(b)(1) of such Act (29 U.S.C. 2612(b)(1)) is amended by inserting after the second sentence the following new sentence: ''Subject to subsection (e)(3) and section 103(f), leave under subsection (a)(1)(E) may be taken intermittently or on a reduced leave schedule.''.

(c) SUBSTITUTION OF PAID LEAVE.—Section 102(d)(2)(A) of such Act (29 U.S.C. 2612(d)(2)(A)) is amended by striking ''or (C)'' and inserting ''(C), or (E)''.

(d) NOTICE.—Section 102(e) of such Act (29 U.S.C. 2612(e)) is amended by adding at the end the following new paragraph:

''(3) NOTICE FOR LEAVE DUE TO ACTIVE DUTY OF FAMILY MEMBER.—In any case in which the necessity for leave under subsection (a)(1)(E) is foreseeable based on notification of an impending call or order to active duty in support of a contingency operation, the employee shall provide such notice to the employer as is reasonable and practicable.''.

(e) CERTIFICATION.—Section 103 of such Act (29 U.S.C. 2613) is amended by adding at the end the following new subsection:

''(f) CERTIFICATION FOR LEAVE DUE TO ACTIVE DUTY OF FAMILY MEMBER.—An employer may require that a request for leave under section 102(a)(1)(E) be supported by a certification issued at such time and in such manner as the Secretary shall by regulation prescribe. If the Secretary issues a regulation requiring such certification, the employee shall provide, in a timely manner, a copy of such certification to the employer.''.

(f) DEFINITION.—Section 101 of such Act (29 U.S.C. 2611) is amended by adding at the end the following new paragraph:

''(14) CONTINGENCY OPERATION.—The term 'contingency operation' has the same meaning given such term in section 101(a)(13) of title 10, United States Code.''.

SEC. 3. LEAVE FOR MILITARY FAMILIES UNDER TITLE 5, UNITED STATES CODE.

(a) ENTITLEMENT TO LEAVE.—Section 6382(a)(1) of title 5, United States Code, is amended by adding at the end the following new subparagraph:

''(E) Because of any qualifying exigency (as defined under section 6387) arising out of the fact that the spouse, or a son, daughter, or parent, of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.''.

(b) INTERMITTENT OR REDUCED LEAVE SCHEDULE.—Section 6382(b)(1) of such title is amended by inserting after the second sentence the following new sentence: ''Subject to subsection (e)(3) and section 6383(f), leave under subsection (a)(1)(E) may be taken intermittently or on a reduced leave schedule.''.

(c) SUBSTITUTION OF PAID LEAVE.—Section 6382(d) of such title is amended by striking ''or (D)'' and inserting ''(D), or (E)''.

(d) NOTICE.—Section 6382(e) of such title is amended by adding at the end the following new paragraph:

''(3) In any case in which the necessity for leave under subsection (a)(1)(E) is foreseeable based on notification of an impending

call or order to active duty in support of a contingency operation, the employee shall provide such notice to the employing agency as is reasonable and practicable.''.

(e) CERTIFICATION.—Section 6383 of such title is amended by adding at the end the following new subsection:

''(f) An employing agency may require that a request for leave under section 6382(a)(1)(E) be supported by a certification issued at such time and in such manner as the employing agency may require.''.

(f) DEFINITION.—Section 6381 of such title is amended—

(1) in paragraph (5)(B), by striking ''and'' at the end;

(2) in paragraph (6)(B), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(6) the term 'contingency operation' has the same meaning given such term in section 101(a)(13) of title 10.''.

By Mr. KENNEDY:

S. 799. A bill to amend the Public Health Service Act to provide for the coordination of Federal Government policies and activities to prevent obesity in childhood, to provide for State childhood obesity prevention and control, and to establish grant programs to prevent childhood obesity within homes, schools, and communities; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, America is facing a major public health problem because of the epidemic of obesity in the nation's children. Nine million children today are obese. Over the past three decades, the rate of obesity has more than doubled in preschool children and adolescents, and tripled among all school-age children. The health risks are immense. If the current rates do not decrease, 30 percent of boys and 40 percent of girls born in 2000 will develop diabetes, which can lead to kidney failure, blindness, heart disease and stroke.

Obese children are 80 percent likely to become obese adults, with significantly greater risk for not only diabetes, but heart disease, arthritis and certain types of cancer. The economic impact of obesity-related health expenditures in 2004 reached $129 billion, a clear sign of the lower quality of life likely to be faced by the growing number of the nation's youth.

Childhood obesity is the obvious result of too much food and too little exercise. Children are especially susceptible because of the dramatic social changes that have been taking place for many years. Children are exposed to 40,000 food advertisements a year one food commercial every minute—urging them to eat candy, snacks, and fast food. Vending machines are now in 43 percent of elementary schools and 97 percent of high schools, offering young students easy access to soft drinks and snacks that can double their risk of obesity. Many schools have eliminated physical education classes, leaving children less active throughout the school day. More communities are built without sidewalks, safe parks, or bike trails. Parents, who worry about the safety of their children in outside play, encourage them to sit and watch television. Fast food stores are nearby, grocery stores and farmers markets with fresh fruits and vegetables are not.

According to the Institute of Medicine, prevention of obesity in children and youth requires public health action at its broadest and most inclusive level, with coordination between federal and state governments, within schools and communities, and involving industry and media, so that children can make food and activity choices that lead to healthy weights.

The Prevention of Childhood Obesity Act makes the current epidemic a national public health priority. It appoints a federal commission on food policies to promote good nutrition. Guidelines for food and physical activity advertisements will be established by a summit conference of representatives from education, industry, and health care. Grants are provided to states to implement anti-obesity plans, including curricula and training for educators, for obesity prevention activities in preschool, school and after-school programs, and for sidewalks, bike trails, and parks where children can play and be both healthy and safe.

Prevention is the cornerstone of good health and long, productive lives for all Americans. Childhood obesity is preventable, but we have to work together to stop this worsening epidemic and protect our children's future. Congress must to do its part and I urge my colleagues to support this legislation.

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. 799

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Prevention of Childhood Obesity Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Childhood overweight and obesity is a major public health threat to the United States. The rates of obesity have doubled in preschool children and tripled in adolescents in the past 25 years. About 9,000,000 young people are considered overweight.

(2) Overweight and obesity is more prevalent in Mexican American and African American youth. Among Mexican Americans, 24 percent of children (6 to 11 years) and adolescents (12 to 19 years) are obese and another 40 percent of children and 44 percent of adolescents are overweight. Among African Americans, 20 percent of children and 24 percent of adolescents are obese and another 36 percent of children and 41 percent of adolescents are overweight.

(3) Childhood overweight and obesity is related to the development of a number of preventable chronic diseases in childhood and adulthood, such as type 2 diabetes and hypertension.

(4) Overweight adolescents have up to an 80 percent chance of becoming obese adults. In 2003, obesity-related health conditions in adults resulted in approximately $11,000,000,000 in medical expenditures.

(5) Childhood overweight and obesity is preventable but will require changes across the multiple environments to which our children are exposed. This includes homes, schools, communities, and society at large.

(6) Overweight and obesity in children are caused by unhealthy eating habits and insufficient physical activity.

(7) Only 2 percent of school children meet all of the recommendations of the Food Guide Pyramid. Sixty percent of young people eat too much fat and less than 20 percent eat the recommended 5 or more servings of fruits and vegetables each day.

(8) More than one third of young people do not meet recommended guidelines for physical activity. Daily participation in high school physical education classes dropped from 42 percent in 1991 to 28 percent in 2003.

(9) Children spend an average of 5½ hours per day using media, more time than they spend doing anything besides sleeping.

(10) Children are exposed to an average of 40,000 television advertisements each year for candy, high sugar cereals, and fast food. Fast food outlets alone spend $3,000,000,000 in advertisements targeting children. Children are exposed to 1 food commercial every 5 minutes.

(11) A coordinated effort involving evidence-based approaches is needed to ensure children develop in a society in which healthy lifestyle choices are available and encouraged.

TITLE I—FEDERAL OBESITY PREVENTION

SEC. 101. FEDERAL LEADERSHIP COMMISSION TO PREVENT CHILDHOOD OBESITY.

Part Q of title III of the Public Health Service Act (42 U.S.C. 280h et seq.) is amended by inserting after section 399W, the following:

''SEC. 399W–1. FEDERAL LEADERSHIP COMMISSION TO PREVENT CHILDHOOD OBESITY.

''(a) IN GENERAL.—The Secretary shall ensure that the Federal Government coordinates efforts to develop, implement, and enforce policies that promote messages and activities designed to prevent obesity among children and youth.

''(b) ESTABLISHMENT OF LEADERSHIP COMMISSION.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall establish within the Centers for Disease Control and Prevention a Federal Leadership Commission to Prevent Childhood Obesity (referred to in this section as the 'Commission') to assess and make recommendations for Federal departmental policies, programs, and messages relating to the prevention of childhood obesity. The Director shall serve as the chairperson of the Commission.

''(c) MEMBERSHIP.—The Commission shall include representatives of offices and agencies within—

''(1) the Department of Health and Human Services;

''(2) the Department of Agriculture;

''(3) the Department of Commerce;

''(4) the Department of Education;

''(5) the Department of Housing and Urban Development;

''(6) the Department of the Interior;

''(7) the Department of Labor;

''(8) the Department of Transportation;

''(9) the Federal Trade Commission; and

''(10) other Federal entities as determined appropriate by the Secretary.

''(d) DUTIES.—The Commission shall—

''(1) serve as a centralized mechanism to coordinate activities related to obesity prevention across all Federal departments and agencies;

''(2) establish specific goals for obesity prevention, and determine accountability for

reaching these goals, within and across Federal departments and agencies;

''(3) review evaluation and economic data relating to the impact of Federal interventions on the prevention of childhood obesity;

''(4) provide a description of evidence-based best practices, model programs, effective guidelines, and other strategies for preventing childhood obesity;

''(5) make recommendations to improve Federal efforts relating to obesity prevention and to ensure Federal efforts are consistent with available standards and evidence; and

''(6) monitor Federal progress in meeting specific obesity prevention goals.

''(e) STUDY; SUMMIT; GUIDELINES.—

''(1) STUDY.—The Government Accountability Office shall—

''(A) conduct a study to assess the effect of Federal nutrition assistance programs and agricultural policies on the prevention of childhood obesity, and prepare a report on the results of such study that shall include a description and evaluation of the content and impact of Federal agriculture subsidy and commodity programs and policies as such relate to Federal nutrition programs;

''(B) make recommendations to guide or revise Federal policies for ensuring access to nutritional foods in Federal nutrition assistance programs; and

''(C) complete the activities provided for under this section not later than 18 months after the date of enactment of this section.

''(2) INSTITUTE OF MEDICINE STUDY.—

''(A) IN GENERAL.—Not later than 6 months after the date of enactment of this section, the Secretary shall request that the Institute of Medicine (or similar organization) conduct a study and make recommendations on guidelines for nutritional food and physical activity advertising and marketing to prevent childhood obesity. In conducting such study the Institute of Medicine shall—

''(i) evaluate children's advertising and marketing guidelines and evidence-based literature relating to the impact of advertising on nutritional foods and physical activity in children and youth; and

''(ii) make recommendations on national guidelines for advertising and marketing practices relating to children and youth that—

''(I) reduce the exposure of children and youth to advertising and marketing of foods of poor or minimal nutritional value and practices that promote sedentary behavior; and

''(II) increase the number of media messages that promote physical activity and sound nutrition.

''(B) GUIDELINES.—Not later than 2 years after the date of enactment of this section, the Institute of Medicine shall submit to the Commission the final report concerning the results of the study, and making the recommendations, required under this paragraph.

''(3) NATIONAL SUMMIT.—

''(A) IN GENERAL.—Not later than 1 year after the date on which the report under paragraph (2)(B) is submitted, the Commission shall convene a National Summit to Implement Food and Physical Activity Advertising and Marketing Guidelines to Prevent Childhood Obesity (referred to in this section as the 'Summit').

''(B) COLLABORATIVE EFFORT.—The Summit shall be a collaborative effort and include representatives from—

''(i) education and child development groups;

''(ii) public health and behavioral science groups;

''(iii) child advocacy and health care provider groups; and

''(iv) advertising and marketing industry.

''(C) ACTIVITIES.—The participants in the Summit shall develop a 5-year plan for implementing the national guidelines recommended by the Institute of Medicine in the report submitted under paragraph (2)(B).

''(D) EVALUATION AND REPORTS.—Not later than 1 year after the date of enactment of this section, and biannually thereafter, the Commission shall evaluate and submit a report to Congress on the efforts of the Federal Government to implement the recommendations made by the Institute of Medicine in the report under paragraph (2)(B) that shall include a detailed description of the plan of the Secretary to implement such recommendations.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2006 through 2010.

''(g) DEFINITIONS.—For purposes of this section, the definitions contained in section 401 of the Prevention of Childhood Obesity Act shall apply.''.

SEC. 102. FEDERAL TRADE COMMISSION AND MARKETING TO CHILDREN AND YOUTH.

(a) IN GENERAL.—Notwithstanding section 18 of the Federal Trade Commission Act (15 U.S.C. 57a), the Federal Trade Commission is authorized to promulgate regulations and monitor compliance with the guidelines for advertising and marketing of nutritional foods and physical activity directed at children and youth, as recommended by the National Summit to Implement Food and Physical Activity Advertising and Marketing Guidelines to Prevent Childhood Obesity (as established under section 399W–1(e)(3) of the Public Health Service Act).

(b) FINES.—Notwithstanding section 18 of the Federal Trade Commission Act (15 U.S.C. 57a), the Federal Trade Commission may assess fines on advertisers or network and media groups that fail to comply with the guidelines described in subsection (a).

TITLE II—STATE CHILDREN AND YOUTH OBESITY PREVENTION AND CONTROL

SEC. 201. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following:

''PART R—OBESITY PREVENTION AND CONTROL

''SEC. 399AA. STATE CHILDHOOD OBESITY PREVENTION AND CONTROL PROGRAMS.

''(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall award competitive grants to eligible entities to support activities that implement the children's obesity prevention and control plans contained in the applications submitted under subsection (b)(2).

''(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

''(1) be a State, territory, or an Indian tribe; and

''(2) submit to the Secretary an application at such time, in such manner, and containing such agreements, assurances, and information as the Secretary may require, including a children's obesity prevention and control plan that—

''(A) is developed with the advice of stakeholders from the public, private, and nonprofit sectors that have expertise relating to obesity prevention and control;

''(B) targets prevention and control of childhood obesity;

''(C) describes the obesity-related services and activities to be undertaken or supported by the applicant; and

''(D) describes plans or methods to evaluate the services and activities to be carried out under the grant.

''(c) USE OF FUNDS.—An eligible entity shall use amounts received under a grant under this section to conduct, in a manner consistent with the children's obesity prevention and control plan under subsection (b)(2)—

''(1) an assessment of the prevalence and incidence of obesity in children;

''(2) an identification of evidence-based and cost-effective best practices for preventing childhood obesity;

''(3) innovative multi-level behavioral or environmental interventions to prevent childhood obesity;

''(4) demonstration projects for the prevention of obesity in children and youth through partnerships between private industry organizations, community-based organizations, academic institutions, schools, hospitals, health insurers, researchers, health professionals, or other health entities determined appropriate by the Secretary;

''(5) ongoing coordination of efforts between governmental and nonprofit entities pursuing obesity prevention and control efforts, including those entities involved in related areas that may inform or overlap with childhood obesity prevention and control efforts, such as activities to promote school nutrition and physical activity; and

''(6) evaluations of State and local policies and programs related to obesity prevention in children.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2006 through 2010.

''SEC. 399AA–1. COMPREHENSIVE OBESITY PREVENTION ACTION GRANTS.

''(a) IN GENERAL.—The Secretary shall award grants on a competitive basis to eligible entities to enable such entities to implement activities related to obesity prevention and control.

''(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

''(1) be a public or private nonprofit entity; and

''(2) submit to the Secretary an application at such time, in such manner, and containing such agreements, assurances, and information as the Secretary may require, including a description of how funds received under a grant awarded under this section will be used to—

''(A) supplement or fulfill unmet needs identified in the children's obesity prevention and control plan of a State, Indian tribe, or territory (as prepared under this part); and

''(B) otherwise help achieve the goals of obesity prevention as established by the Secretary or the Commission.

''(c) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to eligible entities submitting applications proposing to carry out programs for preventing obesity in children and youth from at-risk populations or reducing health disparities in underserved populations.

''(d) USE OF FUNDS.—An eligible entity shall use amounts received under a grant awarded under subsection (a) to implement and evaluate behavioral and environmental change programs for childhood obesity prevention.

''(e) EVALUATION.—An eligible entity that receives a grant under this section shall submit to the Secretary an evaluation of the operations and activities carried out under such grant that includes an analysis of the utilization and benefit of public health programs relevant to the activities described in subsection (d).

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be

necessary for each of fiscal years 2006 through 2010.

''SEC. 399AA–2. DISCOVERY TO PRACTICE CENTERS OF EXCELLENCE WITHIN THE HEALTH PROMOTION AND DISEASE PREVENTION RESEARCH CENTERS OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

''(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall award grants to eligible entities for the establishment of Centers of Excellence for Discovery to Practice (referred to in this section as the 'Centers') implemented through the Health Promotion and Disease Prevention Research Centers of the Centers for Disease Control and Prevention. Such eligible entities shall use grant funds to disseminate childhood obesity prevention evidence-based practices to individuals, families, schools, organizations, and communities.

''(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

''(1) be a Health Promotion and Disease Prevention Research Center of the Centers for Disease Control and Prevention;

''(2) demonstrate a history of service to and collaboration with populations with a high incidence of childhood obesity; and

''(3) submit to the Secretary an application at such time, in such manner, and containing such agreements, assurances, and information as the Secretary may require.

''(c) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to applications targeting childhood obesity prevention activities in underserved populations.

''(d) USE OF FUNDS.—An eligible entity shall use amounts received under a grant under this section to disseminate childhood obesity prevention evidence-based practices through activities that—

''(1) expand the availability of evidence-based nutrition and physical activity programs designed specifically for the prevention of childhood obesity; and

''(2) train lay and professional individuals on determinants of and methods for preventing childhood obesity.

''(e) EVALUATION.—An eligible entity that receives a grant under this section shall submit to the Secretary an evaluation of the operations and activities carried out under such a grant that includes an analysis of increased utilization and benefit of programs relevant to the activities described in subsection (d).

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $50,000,000 for each of fiscal years 2006 through 2010.

''SEC. 399AA–3. DEFINITIONS.

''For purposes of this part, the definitions contained in section 401 of the Prevention of Childhood Obesity Act shall apply.''.

TITLE III—FEDERAL PROGRAMS TO PREVENT CHILDHOOD OBESITY

Subtitle A—Preventing Obesity at Home

SEC. 301. DEVELOPMENT OF OBESITY PREVENTION BEHAVIOR CHANGE CURRICULA FOR EARLY CHILDHOOD HOME VISITATION PROGRAMS.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.), as amended by section 201, is further amended by adding at the end the following:

''PART S—PREVENTING CHILDHOOD OBESITY

''SEC. 399BB. DEVELOPMENT OF OBESITY PREVENTION BEHAVIOR CHANGE CURRICULA FOR EARLY CHILDHOOD HOME VISITATION PROGRAMS.

''(a) IN GENERAL.—The Secretary, in collaboration with the Director of the Centers for Disease Control and Prevention and the Secretary of Education, shall award grants for the development of obesity prevention behavior change curricula to be incorporated into early childhood home visitation programs.

''(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

''(1) be an academic center collaborating with a public or private nonprofit organization that has the capability of testing behavior change curricula in service delivery settings and disseminating results to home visiting programs nationally, except that an organization testing the behavior change curricula developed under the grant shall implement a model of home visitation that—

''(A) focuses on parental education and care of children who are prenatal through 5 years of age;

''(B) promotes the overall health and well-being of young children; and

''(C) adheres to established quality standards; and

''(2) submit to the Secretary an application at such time, in such manner, and containing such agreements, assurances, and information as the Secretary may require.

''(c) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to eligible entities submitting applications that propose to develop and implement programs for preventing childhood obesity and reducing health disparities in underserved populations.

''(d) USE OF FUNDS.—An eligible entity shall use amounts received under a grant under this section to develop, implement, and evaluate the impact of behavior change curricula for early childhood home visitation programs that—

''(1) encourage breast-feeding of infants;

''(2) promote age-appropriate portion sizes for a variety of nutritious foods;

''(3) promote consumption of fruits and vegetables and low-energy dense foods; and

''(4) encourage education around parental modeling of physical activity and reduction in television viewing and other sedentary activities by toddlers and young children.

''(e) EVALUATION.—Not later than 3 years after the date on which a grant is awarded under this section, the grantee shall submit to the Secretary a report that describes the activities carried out with funds received under the grant and the effectiveness of such activities in preventing obesity by improving nutrition and increasing physical activity.

''(f) INCORPORATION INTO EVIDENCE-BASED PROGRAMS.—The Secretary, in consultation with the heads of other Federal departments and agencies, shall ensure that policies that prevent childhood obesity are incorporated into evidence-based early childhood home visitation programs in a manner that provides for measurable outcomes.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $25,000,000 for each of fiscal years 2006 through 2010.''.

Subtitle B—Preventing Childhood Obesity in Schools

SEC. 311. PREVENTING CHILDHOOD OBESITY IN SCHOOLS.

(a) IN GENERAL.—Part S of title III of the Public Health Service Act (as added by section 301) is amended by adding at the end the following:

''SEC. 399BB–1. PREVENTING CHILDHOOD OBESITY IN SCHOOLS.

''(a) IN GENERAL.—The Secretary, in collaboration with the Director of the Centers for Disease Control and Prevention, the Secretary of Education, the Secretary of Agriculture, and the Secretary of the Interior shall establish and implement activities to prevent obesity by encouraging healthy nutrition choices and physical activity in schools.

''(b) SCHOOLS.—The Secretary, in consultation with the Secretary of Education, shall require that each local educational agency that receives Federal funds establish policies to ban vending machines that sell foods of poor or minimal nutritional value in schools.

''(c) SCHOOL DISTRICTS.—

''(1) IN GENERAL.—The Secretary shall award grants to local educational agencies to enable elementary and secondary schools to promote good nutrition and physical activity among children.

''(2) CAROL M. WHITE PHYSICAL EDUCATION PROGRAM.—The Secretary of Education, in collaboration with the Secretary, may give priority in awarding grants under the Carol M. White Physical Education Program under subpart 10 of part D of title V of the Elementary and Secondary Education Act of 1965 to local educational agencies and other eligible entities that have a plan to—

''(A) implement behavior change curricula that promotes the concepts of energy balance, good nutrition, and physical activity;

''(B) implement policies that encourage the appropriate portion sizes and limit access to soft drinks or other foods of poor or minimal nutritional value on school campuses, and at school events;

''(C) provide age-appropriate daily physical activity that helps students to adopt, maintain, and enjoy a physically active lifestyle;

''(D) maintain a minimum number of functioning water fountains (based on the number of individuals) in school buildings;

''(E) prohibit advertisements and marketing in schools and on school grounds for foods of poor or minimal nutritional value such as fast foods, soft drinks, and candy; and

''(F) develop and implement policies to conduct an annual assessment of each student's body mass index and provide such assessment to the student and the parents of that student with appropriate referral mechanisms to address concerns with respect to the results of such assessments.

''(3) GRANTS FOR ADDITIONAL ACTIVITIES.—The Director of the Centers for Disease Control and Prevention, in collaboration with the Secretary, the Secretary of Agriculture, and the Secretary of Education, shall award grants for the implementation and evaluation of activities that—

''(A) educate students about the health benefits of good nutrition and moderate or vigorous physical activity by integrating it into other subject areas and curriculum;

''(B) provide food options that are low in fat, calories, and added sugars such as fruit, vegetables, whole grains, and dairy products;

''(C) develop and implement guidelines for healthful snacks and foods for sale in vending machines, school stores, and other venues within the school's control;

''(D) restrict student access to vending machines, school stores, and other venues that contain foods of poor or minimal nutritional value;

''(E) encourage adherence to single-portion sizes, as defined by the Food and Drug Administration, in foods offered in the school environment;

''(F) provide daily physical education for students in prekindergarten through grade 12 through programs that are consistent with the Guidelines for Physical Activity as reported by Centers for Disease Control and Prevention and the American College of Sports Medicine and National Physical Education Standards;

''(G) encourage the use of school facilities for physical activity programs offered by the school or community-based organizations outside of school hours;

''(H) promote walking or bicycling to and from school using such programs as Walking School Bus and Bike Train;

''(I) train school personnel in a manner that provides such personnel with the knowledge and skills needed to effectively teach lifelong healthy eating and physical activity; and

''(J) evaluate the impact of school nutrition and physical education programs and facilities on body mass index and related fitness criteria at annual intervals to determine the extent to which national guidelines are met.

''(d) EVALUATION.—Not later than 3 years after the date on which a grant is awarded under this section, the grantee shall submit to the Director of the Centers for Disease Control and Prevention a report that describes the activities carried out with funds received under the grant and the effectiveness of such activities in improving nutrition and increasing physical activity.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $50,000,000 for each of fiscal years 2006 through 2010.''.

(b) CAROL M. WHITE PHYSICAL EDUCATION PROGRAM.—Subpart 10 of part D of title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7261 et seq.) is amended by adding at the end the following:

''SEC. 5508. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this subpart, $150,000,000 for each of fiscal years 2006 through 2010.''.

Subtitle C—Preventing Childhood Obesity in Afterschool Programs

SEC. 321. CHILDHOOD OBESITY PREVENTION GRANTS TO AFTERSCHOOL PROGRAMS.

Part S of title III of the Public Health Service Act (as amended by section 311) is further amended by adding at the end the following:

''SEC. 399BB–2. CHILDHOOD OBESITY PREVENTION GRANTS TO AFTERSCHOOL PROGRAMS.

''(a) IN GENERAL.—The Secretary, in collaboration with the Director of the Centers for Disease Control and Prevention and the Secretary of Education, shall award grants for the development of obesity prevention behavior change curricula for afterschool programs for children.

''(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

''(1) be an academic center collaborating with a public or private nonprofit organization that has the capability of testing behavior change curricula in service delivery settings and disseminating results to afterschool programs on a nationwide basis, except that an organization testing the behavior change curricula developed under the grant shall implement a model of afterschool programming that shall—

''(A) focus on afterschool programs for children up to the age of 13 years;

''(B) promote the overall health and well-being of children and youth; and

''(C) adhere to established quality standards; and

''(2) submit to the Secretary an application at such time, in such manner, and containing such agreements, assurances, and information as the Secretary may require.

''(c) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to eligible entities submitting applications proposing to develop, implement, and evaluate programs for preventing and controlling childhood obesity or reducing health disparities in underserved populations.

''(d) USE OF FUNDS.—An eligible entity shall use amounts received under a grant under this section to develop, implement, and evaluate, and disseminate the results of such evaluations, the impact of curricula for afterschool programs that promote—

''(1) age-appropriate portion sizes;

''(2) consumption of fruits and vegetables and low-energy dense foods;

''(3) physical activity; and

''(4) reduction in television viewing and other passive activities.

''(e) EVALUATION.—Not later than 3 years after the date on which a grant is awarded under this section, the grantee shall submit to the Secretary a report that described the activities carried out with funds received under the grant and the effectiveness of such activities in preventing obesity, improving nutrition, and increasing physical activity.

''(f) INCORPORATION OF POLICIES INTO FEDERAL PROGRAMS.—The Secretary, in consultation with the heads of other Federal departments and agencies, shall ensure that policies that prevent childhood obesity are incorporated into evidence-based afterschool programs in a manner that provides for measurable outcomes.

''(g) DEFINITION.—In this section, the term 'afterschool programs' means programs providing structured activities for children during out-of-school time, including before school, after school, and during the summer months.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $25,000,000 for each of fiscal years 2006 through 2010.''.

Subtitle D—Training Early Childhood and Afterschool Professionals to Prevent Childhood Obesity

SEC. 331. TRAINING EARLY CHILDHOOD AND AFTERSCHOOL PROFESSIONALS TO PREVENT CHILDHOOD OBESITY.

Part S of title III of the Public Health Service Act (as amended by section 321) is further amended by adding at the end the following:

''SEC. 399BB–3. TRAINING EARLY CHILDHOOD AND AFTERSCHOOL PROFESSIONALS TO PREVENT CHILDHOOD OBESITY.

''(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall award grants to support the training of early childhood professionals (such as parent educators and child care providers) about obesity prevention, with emphasis on nationally accepted standards.

''(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

''(1) be a public or private nonprofit organization that conducts or supports early childhood and afterschool programs, home visitation, or other initiatives that—

''(A) focus on parental education and care of children;

''(B) promote the overall health and well-being of children;

''(C) adhere to established quality standards; and

''(D) have the capability to provide or distribute training on a nationwide basis; and

''(2) submit to the Secretary an application at such time, in such manner, and containing such agreements, assurances, and information as the Secretary may require.

''(c) EVALUATION.—Not later than 3 years after the date on which a grant is awarded under this section, the grantee shall submit to the Administrator of the Health Resources and Services Administration a report that describes the activities carried out with funds received under the grant and the effectiveness of such activities in improving the practice of child care and afterschool professionals with respect to the prevention of obesity.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $10,000,000 for each of fiscal years 2006 through 2010.''.

Subtitle E—Preventing Childhood Obesity in Communities

SEC. 341. PREVENTING CHILDHOOD OBESITY IN COMMUNITIES.

Part S of title III of the Public Health Service Act (as amended by section 331) is further amended by adding at the end the following:

''SEC. 399BB–4. PREVENTING CHILDHOOD OBESITY IN COMMUNITIES.

''(a) IN GENERAL.—The Director of the Centers for Disease Control and Prevention, in collaboration with the Secretary, the Secretary of Transportation, and Secretary of the Interior, shall award grants and implement activities to encourage healthy nutrition and physical activity by children in communities.

''(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

''(1) be a public or private nonprofit organization or community-based organizations that conduct initiatives that—

''(A) focus on parental education and care of children;

''(B) promote the overall health and well-being of children;

''(C) adhere to established quality standards; and

''(D) have the capability to provide training on a nationwide basis; and

''(2) submit to the Secretary an application at such time, in such manner, and containing such agreements, assurances, and information as the Secretary may require.

''(c) COMMUNITIES.—

''(1) IN GENERAL.—The Director of the Centers for Disease Control and Prevention, in collaboration with the Secretary, the Secretary of Transportation, and Secretary of the Interior, shall award grants to eligible entities to develop broad partnerships between private and public and nonprofit entities to promote healthy nutrition and physical activity for children by assessing, modifying, and improving community planning and design.

''(2) ACTIVITIES.—Amounts awarded under a grant under paragraph (1) shall be used for the implementation and evaluation of activities—

''(A) to create neighborhoods that encourage healthy nutrition and physical activity;

''(B) to promote safe walking and biking routes to schools;

''(C) to design pedestrian zones and construct safe walkways, cycling paths, and playgrounds;

''(D) to implement campaigns, in communities at risk for sedentary activity, designed to increase levels of physical activity, which should be evidence-based, and may incorporate informational, behavioral, and social, or environmental and policy change interventions;

''(E) to implement campaigns, in communities at risk for poor nutrition, that are designed to promote intake of foods by children consistent with established dietary guidelines through the use of different types of media including television, radio, newspapers, movie theaters, billboards, and mailings; and

''(F) to implement campaigns, in communities at risk for poor nutrition, that promote water as the main daily drink of choice for children through the use of different types of media including television, radio, newspapers, movie theaters, billboards, and mailings.

''(d) EVALUATION.—Not later than 3 years after the date on which a grant is awarded under this section, the grantee shall submit

to the Director of the Centers for Disease Control and Prevention a report that describes the activities carried out with funds received under the grant and the effectiveness of such activities in increasing physical activity and improving dietary intake.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $50,000,000 for each of fiscal years 2006 through 2010.''.

SEC. 342. GRANTS AND CONTRACTS FOR A NATIONAL CAMPAIGN TO CHANGE CHILDREN'S HEALTH BEHAVIORS.

Section 399Y of the Public Health Service Act (42 U.S.C. 280h–2) is amended by striking subsection (b) and inserting the following:

''(b) GRANTS.—

''(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall award grants or contracts to eligible entities to design and implement culturally and linguistically appropriate and competent campaigns to change children's health behaviors.

''(2) ELIGIBLE ENTITY.—In this subsection, the term 'eligible entity' means a marketing, public relations, advertising, or other appropriate entity.

''(3) CONTENT.—An eligible entity that receives a grant under this subsection shall use funds received through such grant or contract to utilize marketing and communication strategies to—

''(A) communicate messages to help young people develop habits that will foster good health over a lifetime;

''(B) provide young people with motivation to engage in sports and other physical activities;

''(C) influence youth to develop good health habits such as regular physical activity and good nutrition;

''(D) educate parents of young people on the importance of physical activity and improving nutrition, how to maintain healthy behaviors for the entire family, and how to encourage children to develop good nutrition and physical activity habits; and

''(E) discourage stigmatization and discrimination based on body size or shape.

''(4) REPORT.—The Secretary shall evaluate the effectiveness of the campaign described in paragraph (1) in changing children's behaviors and report such results to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $125,000,000 for fiscal year 2006, and such sums as may be necessary for each of fiscal years 2007 through 2011.''.

SEC. 343. PREVENTION OF CHILDHOOD OBESITY RESEARCH THROUGH THE NATIONAL INSTITUTES OF HEALTH.

(a) IN GENERAL.—The Director of the National Institutes of Health, in accordance with the National Institutes of Health's Strategic Plan for Obesity Research, shall expand and intensify research that addresses the prevention of childhood obesity.

(b) PLAN.—The Director of the National Institutes of Health shall—

(1) conduct or support research programs and research training concerning the prevention of obesity in children; and

(2) develop and periodically review, and revise as appropriate, the Strategic Plan for Obesity Research.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2006 through 2011. Amounts appropriated under this section shall be in addition to other amounts available for carrying out activities of the type described in this section.

SEC. 344. RESEARCH ON THE RELATIONSHIP BETWEEN THE PHYSICAL ACTIVITY OF CHILDREN AND THE BUILT ENVIRONMENT.

Part S of title III of the Public Health Service Act (as amended by section 341) is further amended by adding at the end the following:

''SEC. 399BB–5. RESEARCH ON THE RELATIONSHIP BETWEEN THE PHYSICAL ACTIVITY OF CHILDREN AND THE BUILT ENVIRONMENT.

''(a) IN GENERAL.—The Secretary shall support research efforts to promote physical activity in children through enhancement of the built environment.

''(b) ELIGIBILITY.—In this section, the term 'eligible institution' means a public or private nonprofit institution that submits to the Secretary an application at such time, in such manner, and containing such agreements, assurances, and information as the Secretary may require.

''(c) GRANT PROGRAMS.—

''(1) RESEARCH.—The Secretary, in collaboration with the Transportation Research Board of the National Research Council, shall award grants to eligible institutions to expand, intensify, and coordinate research that will—

''(A) investigate and define causal links between the built environment and levels of physical activity in children;

''(B) include focus on a variety of geographic scales, with particular focus given to smaller geographic units of analysis such as neighborhoods and areas around elementary schools and secondary schools;

''(C) identify or develop effective intervention strategies to promote physical activity among children with focus on behavioral interventions and enhancements of the built environment that promote increased use by children; and

''(D) assure the generalizability of intervention strategies to high-risk populations and high-risk communities, including low-income urban and rural communities.

''(2) INTERVENTION PILOT PROGRAMS.—The Secretary, in collaboration with the Transportation Research Board of the National Research Council and with appropriate Federal agencies, shall award grants to pilot test the intervention strategies identified or developed through research activities described in paragraph (1) relating to increasing use of the built environment by children.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2006 through 2010.

''SEC. 399BB–6. DEFINITIONS.

''For purposes of this part, the definitions contained in section 401 of the Prevention of Childhood Obesity Act shall apply.''.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. DEFINITIONS.

In this Act:

(1) CHILDHOOD.—The term ''childhood'' means children and youth from birth to 18 years of age.

(2) CHILDREN.—The term ''children'' means children and youth from birth through 18 years of age.

(3) FOOD OF POOR OR MINIMAL NUTRITIONAL VALUE.—The term ''food of poor or minimal nutritional value'' has the meaning given the term ''food of minimal nutritional value'' for purposes of the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and part 210 of title 7, Code of Federal Regulations.

(4) OBESITY AND OVERWEIGHT.—The terms ''obesity'' and ''overweight'' have the meanings given such terms by the Centers for Disease Control and Prevention.

(5) OBESITY CONTROL.—The term ''obesity control'' means programs or activities for the prevention of excessive weight gain.

(6) OBESITY PREVENTION.—The term ''obesity prevention'' means prevention of obesity or overweight.

By Ms. COLLINS (for herself, Mr. LIEBERMAN, Mr. VOINOVICH, Mr. AKAKA, Ms. LANDRIEU, and Mr. DURBIN):

S. 800. A bill to amend the District of Columbia Home Rule Act to provide the District of Columbia with autonomy over its budgets, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Ms. Collins. Mr. President, today I am introducing legislation that includes the District of Columbia Budget Autonomy Act of 2005 and the District of Columbia Independence of the Chief Financial Officer Act of 2005. Last Congress, I introduced this legislation, which passed the Senate unanimously. This legislation would provide the District of Columbia with more autonomy over its local budget and make permanent the authority of the D.C. Chief Financial Officer.

Providing the District of Columbia with more autonomy over its local budget will help the Mayor and the Council of the District of Columbia better manage and run the city. Currently, the District of Columbia must submit its budget through the normal Federal appropriations process. Unfortunately, this process is often riddled with delays. For example, the average delay for enactment of an appropriations bill for the District of Columbia has been 3 months. The result of this delay is clear. For a local community these delays affect programs, planning and management initiatives important to the everyday lives of the residents of the city.

The ability of D.C., like any other city in the Nation, to operate efficiently and address the needs of its citizens is of utmost importance. Unlike other budgets that are approved by Congress, the local D.C. budget has a direct effect on local services and programs and affects the quality oflife for the residents of D.C. Congress has recognized the practical issues associated with running a city. As a result, in the 1970s, Congress passed the D.C. Home Rule Act which established the current form of local government. Congress also empowered D.C. to enact local laws that affect the everyday lives of District residents. And, now, I believe it is time for Congress to do the same with regard to the local budget.

The District of Columbia Budget Autonomy Act of 2005 would address these problems by authorizing the local government to pass its own budget each year. This bill would only affect that portion of the D.C. budget that includes the use oflocal funds, not Federal funds. In addition, the bill still provides for congressional oversight. Prior to a local budget becoming effective, Congress will have a 30-day period

in which to review the local budget. In addition, the local authority to pass a budget would be suspended during any periods of poor financial condition that would trigger a control year.

Having the locally elected officials of those providing the funds that are the subject of the budget process decide on how those funds should be spent is a matter of simple fairness. There are also the practical difficulties that the current system causes when the local budget is not approved until well into the fiscal year. By enacting this bill, Congress would be appropriately carrying out its constitutional duties with respect to the District by improving the city's ability to better plan, manage and run its local programs and services. This is what the taxpayers of the District of Columbia have elected their local officials to do.

The legislation also includes the District of Columbia Independence of the Chief Financial Officer Act of 2005 which would make permanent the authority of the District of Columbia Chief Financial Officer. The current Chief Financial Officer for the District of Columbia is operating under authority it derived from the D.C. Control Board, which is currently dormant due to the city's improved financial situation. That authority was set to sunset when the D.C. Control Board was phased out; however, the CFO's authority continues to be extended through the appropriations process, until such time as permanent legislation is enacted.

Ensuring continued financial accountability of the D.C. government is crucial for the fiscal stability of the city. The CFO has played a significant role in maintaining this stability. While providing the District with more autonomy over its budgets, it is also important that the CFO's authority is made permanent and that its role is clear.

I urge my colleagues to support this important piece of legislation.

By Mr. NELSON of Florida:

S. 801. A bill to designate the United States courthouse located at 300 North Hogan Street, Jacksonville, Florida, as the ''John Milton Bryan Simpson United States Courthouse''; to the Committee on Environment and Public Works.

Mr. NELSON. Mr. President, today I rise to introduce a bill designating a Jacksonville courthouse as the John Milton Bryan Simpson United States Courthouse.

John Milton Bryan Simpson was born in Kissimmee, FL, in 1903. He was nominated to the Southern District Court of Florida by President Truman in 1950 and to the Federal court of appeals by President Johnson in 1966.

Designating this courthouse after the late Judge Simpson is a fitting tribute to a man whose judicial decisions were instrumental in desegregating public facilities in Jacksonville, Orlando, and Daytona Beach.

It is important that we remember not only his name but also his legacy of courage during that period of our history.

I hope that other members of the Senate will join me in honoring Judge Simpson, a man who was not only a hero to the state of Florida, but a national hero.

By Mr. DOMENICI (for himself, Mr. BAUCUS, Mr. BURNS, Mr. JOHNSON, Mr. ROBERTS, Mr. BINGAMAN, Mr. ALLARD, Mr. WYDEN, Mr. SMITH, Mr. HAGEL, and Mr. BROWNBACK):

S. 802. A bill to establish a National Drought Council within the Department of Agriculture, to improve national drought preparedness, mitigation, and response efforts, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. DOMENICI1. Mr. President, I rise today to introduce The National Drought Preparedness Act of 2005. First off, I would like to thank Senator BAUCUS. As the lead cosponsor, his strong leadership and hard work on this bill has been a tremendous help.

Drought is a unique emergency situation; it creeps in unlike other abrupt weather disasters. Without a national drought policy we constantly live not knowing what the next year will bring. Unfortunately, when we find ourselves facing a drought, towns often scramble to drill new water wells, fires often sweep across bone dry forests and farmers and ranchers are forced to watch their way of life blow away with the dust.

We must be vigilant and prepare ourselves for quick action when the next drought cycle begins. Better planning on our part could limit some of the damage felt by drought. I submit that this bill is the exact tool needed for facilitating better planning.

This Act establishes a National Drought Council within the Department of Agriculture to improve national drought preparedness, mitigation and response efforts. The National Drought Council will formulate strategies to alleviate the effects of drought by fostering a greater understanding of what triggers wide-spread drought conditions. By educating the public in water conservation and proper land stewardship, we can ensure a better preparedness when future drought plagues our country.

The impacts of drought are also very costly. According to NOAA, there have been 12 different drought events since 1980 that resulted in damages and costs exceeding $1 billion each. In 2000, severe drought in the South-Central and Southeastern states caused losses to agriculture and related industries of over $4 billion. Western wildfires that year totaled over $2 billion in damages. The Eastern drought in 1999 led to $1 billion in losses. These are just a few of the statistics.

While drought affects the economic and environmental well being of the entire nation, the United States has lacked a cohesive strategy for dealing with serious drought emergencies. As many of you know, the impact of drought emerges gradually rather than suddenly as is the case with other natural disasters.

I am pleased to be following through on what I started in 1997. The bill that we are introducing today is the next step in implementing a national, cohesive drought policy. The bill recognizes that drought is a recurring phenomenon that causes serious economic and environmental loss and that a national drought policy is needed to ensure an integrated, coordinated strategy.

The National Drought Preparedness Act of 2005 does the following: It creates national policy for drought. This will hopefully move the country away from the costly, ad hoc, response-oriented approach to drought, and move us toward a pro-active, preparedness approach. The new national policy would provide the tools and focus, similar to the Stafford Act, for Federal, State, tribal and local governments to address the diverse impacts and costs caused by drought.

The Bill would improve delivery of federal drought programs. This would ensure improved program delivery, integration and leadership. To achieve this intended purpose, the bill establishes the National Drought Council, designating USDA as the lead federal agency. The Council and USDA would provide the coordinating and integrating function for federal drought programs, much like FEMA provides that function for other natural disasters under the Stafford Act.

The Act will provide new tools for drought preparedness planning. Building on existing policy and planning processes, the bill would assist states, local governments, tribes, and other entities in the development and implementation of drought preparedness plans. The bill does not mandate state and local planning, but is intended to facilitate plan development and implementation through establishment of the Drought Assistance Fund.

The bill would improve forecasting & monitoring by facilitating the development of the National Drought Monitoring Network in order to improve the characterization of current drought conditions and the forecasting of future droughts. Ultimately, this would provide a better basis to ''trigger'' federal drought assistance.

Finally, the bill would authorize the USDA to provide reimbursement to states for reasonable staging and prepositioning costs when there is a threat of a wildfire.

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. 802

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 ''National Drought Preparedness Act of 2005''.

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

SEC. 2. FINDINGS.

Congress finds that—

(1) drought is a natural disaster;

(2) regional drought disasters in the United States cause serious economic and environmental losses, yet there is no national policy to ensure an integrated and coordinated Federal strategy to prepare for, mitigate, or respond to such losses;

(3) drought has an adverse effect on resource-dependent businesses and industries (including the recreation and tourism industries);

(4) State, tribal, and local governments have to increase coordinated efforts with each Federal agency involved in drought monitoring, planning, mitigation, and response;

(5) effective drought monitoring—

(A) is a critical component of drought preparedness and mitigation; and

(B) requires a comprehensive, integrated national program that is capable of providing reliable, accessible, and timely information to persons involved in drought planning, mitigation, and response activities;

(6) the National Drought Policy Commission was established in 1998 to provide advice and recommendations on the creation of an integrated, coordinated Federal policy designed to prepare for and respond to serious drought emergencies;

(7) according to the report issued by the National Drought Policy Commission in May 2000, the guiding principles of national drought policy should be—

(A) to favor preparedness over insurance, insurance over relief, and incentives over regulation;

(B) to establish research priorities based on the potential of the research to reduce drought impacts;

(C) to coordinate the delivery of Federal services through collaboration with State and local governments and other non-Federal entities; and

(D) to improve collaboration among scientists and managers; and

(8) the National Drought Council, in coordination with Federal agencies and State, tribal, and local governments, should provide the necessary direction, coordination, guidance, and assistance in developing a comprehensive drought preparedness system.

SEC. 3. DEFINITIONS.

In this Act:

(1) COUNCIL.—The term ''Council'' means the National Drought Council established by section 101(a).

(2) CRITICAL SERVICE PROVIDER.—The term ''critical service provider'' means an entity that provides power, water (including water provided by an irrigation organization or facility), sewer services, or wastewater treatment.

(3) DIRECTOR.—The term ''Director'' means the Director of the Office appointed under section 112(a).

(4) DROUGHT.—The term ''drought'' means a natural disaster that is caused by a deficiency in precipitation—

(A) that may lead to a deficiency in surface and subsurface water supplies (including rivers, streams, wetlands, ground water, soil moisture, reservoir supplies, lake levels, and snow pack); and

(B) that causes or may cause—

(i) substantial economic or social impacts; or

(ii) physical damage or injury to individuals, property, or the environment.

(5) FUND.—The term ''Fund'' means the Drought Assistance Fund established by section 121(a).

(6) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(7) INTERSTATE WATERSHED.—The term ''interstate watershed'' means a watershed that crosses a State or tribal boundary.

(8) MITIGATION.—The term ''mitigation'' means a short- or long-term action, program, or policy that is implemented in advance of or during a drought to minimize any risks and impacts of drought.

(9) NATIONAL INTEGRATED DROUGHT INFORMATION SYSTEM.—The term ''National Integrated Drought Information System'' means a comprehensive system that collects and integrates information on the key indicators of drought, including stream flow, ground water levels, reservoir levels, soil moisture, snow pack, and climate (including precipitation and temperature), in order to make usable, reliable, and timely assessments of drought, including the severity of drought and drought forecasts.

(10) NEIGHBORING COUNTRY.—The term ''neighboring country'' means Canada and Mexico.

(11) OFFICE.—The term ''Office'' means the National Office of Drought Preparedness established under section 111.

(12) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(13) STATE.—The term ''State'' means—

(A) each of the several States of the United States;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico;

(D) Guam;

(E) American Samoa;

(F) the Commonwealth of the Northern Mariana Islands;

(G) the Federated States of Micronesia;

(H) the Republic of the Marshall Islands;

(I) the Republic of Palau; and

(J) the United States Virgin Islands.

(14) TRIGGER.—The term ''trigger'' means the thresholds or criteria that must be satisfied before mitigation or emergency assistance may be provided to an area—

(A) in which drought is emerging; or

(B) that is experiencing a drought.

(15) UNDER SECRETARY.—The term ''Under Secretary'' means the Under Secretary of Agriculture for Natural Resources and Environment.

(16) UNITED STATES.—The term ''United States'', when used in a geographical sense, means all of the States.

(17) WATERSHED.—

(A) IN GENERAL.—The term ''watershed'' means—

(i) a region or area with common hydrology;

(ii) an area drained by a waterway that drains into a lake or reservoir;

(iii) the total area above a designated point on a stream that contributes water to the flow at the designated point; or

(iv) the topographic dividing line from which surface streams flow in 2 different directions.

(B) EXCLUSION.—The term ''watershed'' does not include a region or area described in subparagraph (A) that is larger than a river basin.

(18) WATERSHED GROUP.—The term ''watershed group'' means a group of individuals that—

(A) represents the broad scope of relevant interests in a watershed; and

(B) works in a collaborative manner to jointly plan the management of the natural resources in the watershed; and

(C) is formally recognized by each of the States in which the watershed lies.

SEC. 4. EFFECT OF ACT.

This Act does not affect—

(1) the authority of a State to allocate quantities of water under the jurisdiction of the State; or

(2) any State water rights established as of the date of enactment of this Act.

TITLE I—DROUGHT PREPAREDNESS

Subtitle A—National Drought Council

SEC. 101. MEMBERSHIP AND VOTING.

(a) IN GENERAL.—There is established in the Office of the Secretary a council to be known as the ''National Drought Council''.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Council shall be composed of—

(A) the Secretary;

(B) the Secretary of Commerce;

(C) the Secretary of the Army;

(D) the Secretary of the Interior;

(E) the Director of the Federal Emergency Management Agency;

(F) the Administrator of the Environmental Protection Agency;

(G) 4 members appointed by the Secretary, in coordination with the National Governors Association—

(i) who shall each be a Governor of a State; and

(ii) who shall collectively represent the geographic diversity of the United States;

(H) 1 member appointed by the Secretary, in coordination with the National Association of Counties;

(I) 1 member appointed by the Secretary, in coordination with the United States Conference of Mayors;

(J) 1 member appointed by the Secretary of the Interior, in coordination with Indian tribes, to represent the interests of tribal governments; and

(K) 1 member appointed by the Secretary, in coordination with the National Association of Conservation Districts, to represent local soil and water conservation districts.

(2) DATE OF APPOINTMENT.—The appointment of each member of the Council shall be made not later than 120 days after the date of enactment of this Act.

(c) TERM; VACANCIES.—

(1) TERM.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a member of the Council shall serve for the life of the Council.

(B) EXCEPTION.—A member of the Council appointed under subparagraphs (G) through

(K) of subsection (b)(1) shall be appointed for a term of 2 years.

(2) VACANCIES.—

(A) IN GENERAL.—A vacancy on the Council—

(i) shall not affect the powers of the Council; and

(ii) shall be filled in the same manner as the original appointment was made.

(B) DURATION OF APPOINTMENT.—A member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor was appointed shall be appointed only for the remainder of the term.

(d) MEETINGS.—

(1) IN GENERAL.—The Council shall meet at the call of the co-chairs.

(2) FREQUENCY.—The Council shall meet at least semiannually.

(e) QUORUM.—A majority of the members of the Council, including a designee of a member, shall constitute a quorum, but a lesser number may hold hearings or conduct other business.

(f) CO-CHAIRS.—

(1) IN GENERAL.—There shall be a Federal co-chair and non-Federal co-chair of the Council.

(2) APPOINTMENT.—

(A) FEDERAL CO-CHAIR.—The Secretary shall be Federal co-chair.

(B) NON-FEDERAL CO-CHAIR.—Every 2 years, the Council members appointed under subparagraphs (G) through (K) of subsection (b)(1) shall select a non-Federal co-chair from among the members appointed under those subparagraphs.

(g) DIRECTOR.—

(1) IN GENERAL.—The Director shall serve as Director of the Council.

(2) DUTIES.—The Director shall serve the interests of all members of the Council.

SEC. 102. DUTIES OF THE COUNCIL.

(a) IN GENERAL.—The Council shall—

(1) not later than 1 year after the date of the first meeting of the Council, develop a comprehensive National Drought Policy Action Plan that—

(A)(i) delineates and integrates responsibilities for activities relating to drought (including drought preparedness, mitigation, research, risk management, training, and emergency relief) among Federal agencies; and

(ii) ensures that those activities are coordinated with the activities of the States, local governments, Indian tribes, and neighboring countries;

(B) is consistent with—

(i) this Act and other applicable Federal laws; and

(ii) the laws and policies of the States for water management;

(C) is integrated with drought management programs of the States, Indian tribes, local governments, watershed groups, and private entities; and

(D) avoids duplicating Federal, State, tribal, local, watershed, and private drought preparedness and monitoring programs in existence on the date of enactment of this Act;

(2) evaluate Federal drought-related programs in existence on the date of enactment of this Act and make recommendations to Congress and the President on means of eliminating—

(A) discrepancies between the goals of the programs and actual service delivery;

(B) duplication among programs; and

(C) any other circumstances that interfere with the effective operation of the programs;

(3) make recommendations to the President, Congress, and appropriate Federal Agencies on—

(A) the establishment of common interagency triggers for authorizing Federal drought mitigation programs; and

(B) improving the consistency and fairness of assistance among Federal drought relief programs;

(4) in conjunction with the Secretary of Commerce, coordinate and prioritize specific activities to establish and improve the National Integrated Drought Information System by—

(A) taking into consideration the limited resources for—

(i) drought monitoring, prediction, and research activities; and

(ii) water supply forecasting; and

(B) providing for the development of an effective drought early warning system that—

(i) communicates drought conditions and impacts to—

(I) decisionmakers at the Federal, regional, State, tribal, and local levels of government;

(II) the private sector; and

(III) the public; and

(ii) includes near-real-time data, information, and products developed at the Federal, regional, State, tribal, and local levels of government that reflect regional and State differences in drought conditions;

(5) in conjunction with the Secretary of the Army and the Secretary of the Interior—

(A) encourage and facilitate the development of drought preparedness plans under subtitle C, including establishing the guidelines under sections 121(c) and 122(a); and

(B) based on a review of drought preparedness plans, develop and make available to the public drought planning models to reduce water resource conflicts relating to water conservation and droughts;

(6) develop and coordinate public awareness activities to provide the public with access to understandable, and informative materials on drought, including—

(A) explanations of the causes of drought, the impacts of drought, and the damages from drought;

(B) descriptions of the value and benefits of land stewardship to reduce the impacts of drought and to protect the environment;

(C) clear instructions for appropriate responses to drought, including water conservation, water reuse, and detection and elimination of water leaks;

(D) information on State and local laws applicable to drought; and

(E) information on the assistance available to resource-dependent businesses and industries during a drought; and

(7) establish operating procedures for the Council.

(b) CONSULTATION.—In carrying out this section, the Council shall consult with groups affected by drought emergencies, including groups that represent—

(1) agricultural production, wildlife, and fishery interests;

(2) forestry and fire management interests;

(3) the credit community;

(4) rural and urban water associations;

(5) environmental interests;

(6) engineering and construction interests;

(7) the portion of the science community that is concerned with drought and climatology;

(8) resource-dependent businesses and other private entities (including the recreation and tourism industries); and

(9) watershed groups.

(c) AGENCY ROLES AND RESPONSIBILITIES.—

(1) DESIGNATION OF LEAD AGENCIES.—

(A) DEPARTMENT OF COMMERCE.—The Department of Commerce shall be the lead agency for purposes of implementing subsection (a)(4).

(B) DEPARTMENTS OF THE ARMY AND THE INTERIOR.—The Department of the Army and the Department of the Interior shall jointly be the lead agency for purposes of implementing—

(i) paragraphs (5) and (6) of section subsection (a); and

(ii) section 122.

(C) DEPARTMENT OF AGRICULTURE.—The Department of Agriculture, in cooperation with the lead agencies designated under subparagraphs (A) and (B), shall be the lead agency for purposes of implementing section 121.

(2) COOPERATION FROM OTHER FEDERAL AGENCIES.—The head of each Federal agency shall cooperate as appropriate with the lead agencies in carrying out any duties under this Act.

(d) REPORTS TO CONGRESS.—

(1) ANNUAL REPORT.—

(A) IN GENERAL.—Not later than 1 year after the date of the first meeting of the Council, and annually thereafter, the Council shall submit to Congress a report on the activities carried out under this title.

(B) INCLUSIONS.—

(i) IN GENERAL.—The annual report shall include a summary of drought preparedness plans completed under sections 123 through 125.

(ii) INITIAL REPORT.—The initial report submitted under subparagraph (A) shall include any recommendations of the Council under paragraph (2) or (3) of subsection (a).

(2) FINAL REPORT.—Not later than 7 years after the date of enactment of this Act, the Council shall submit to Congress a report that recommends—

(A) amendments to this Act; and

(B) whether the Council should continue.

SEC. 103. POWERS OF THE COUNCIL.

(a) HEARINGS.—The Council may hold hearings, meet and act at any time and place, take any testimony and receive any evidence that the Council considers advisable to carry out this title.

(b) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Council may obtain directly from any Federal agency any information that the Council considers necessary to carry out this title.

(2) PROVISION OF INFORMATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), on request of the Secretary or the non-Federal co-chair, the head of a Federal agency may provide information to the Council.

(B) LIMITATION.—The head of a Federal agency shall not provide any information to the Council that the Federal agency head determines the disclosure of which may cause harm to national security interests.

(c) POSTAL SERVICES.—The Council may use the United States mail in the same manner and under the same conditions as other agencies of the Federal Government.

(d) GIFTS.—The Council may accept, use, and dispose of gifts or donations of services or property.

(e) FEDERAL FACILITIES.—If the Council proposes the use of a Federal facility for the purposes of carrying out this title, the Council shall solicit and consider the input of the Federal agency with jurisdiction over the facility.

SEC. 104. COUNCIL PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—

(1) NON-FEDERAL EMPLOYEES.—A member of the Council who is not an officer or employee of the Federal Government shall serve without compensation.

(2) FEDERAL EMPLOYEES.—A member of the Council who is an officer or employee of the United States shall serve without compensation in addition to the compensation received for services of the member as an officer or employee of the Federal Government.

(b) TRAVEL EXPENSES.—A member of the Council shall be allowed travel expenses at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5,

United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Council.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title $2,000,000 for each of the 7 fiscal years after the date of enactment of this Act.

SEC. 106. TERMINATION OF COUNCIL.

The Council shall terminate 8 years after the date of enactment of this Act.

Subtitle B—National Office of Drought Preparedness

SEC. 111. ESTABLISHMENT.

The Secretary shall establish an office to be known as the ''National Office of Drought Preparedness'', which shall be under the jurisdiction of the Under Secretary, to provide assistance to the Council in carrying out this title.

SEC. 112. DIRECTOR OF THE OFFICE.

(a) APPOINTMENT.—

(1) IN GENERAL.—The Under Secretary shall appoint a Director of the Office under sections 3371 through 3375 of title 5, United States Code.

(2) QUALIFICATIONS.—The Director shall be a person who has experience in—

(A) public administration; and

(B) drought mitigation or drought management.

(b) POWERS.—The Director may hire such other additional personnel or contract for services with other entities as necessary to carry out the duties of the Office.

SEC. 113. OFFICE STAFF.

(a) IN GENERAL.—The Office shall have at least 5 full-time staff, including the detailees detailed under subsection (b)(1).

(b) DETAILEES.—

(1) REQUIRED DETAILEES.—There shall be detailed to the Office, on a nonreimbursable basis—

(A) by the Director of the Federal Emergency Management Agency, 1 employee of the Federal Emergency Management Agency with expertise in emergency planning;

(B) by the Secretary of Commerce, 1 employee of the Department of Commerce with experience in drought monitoring;

(C) by the Secretary of the Interior, 1 employee of the Bureau of Reclamation with experience in water planning; and

(D) by the Secretary of the Army, 1 employee of the Army Corps of Engineers with experience in water planning.

(2) ADDITIONAL DETAILEES.—

(A) IN GENERAL.—In addition to any employees detailed under paragraph (1), any other employees of the Federal Government may be detailed to the Office.

(B) REIMBURSEMENT.—An employee detailed under subparagraph (A) shall be detailed without reimbursement, unless the Secretary, on the recommendation of the Director, determines that reimbursement is appropriate.

(3) CIVIL SERVICE STATUS.—The detail of an employee under paragraph (1) or (2) shall be without interruption or loss of civil service status or privilege.

Subtitle C—Drought Preparedness Plans

SEC. 121. DROUGHT ASSISTANCE FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ''Drought Assistance Fund''.

(b) PURPOSE.—The Fund shall be used to pay the costs of—

(1) providing technical and financial assistance (including grants and cooperative assistance) to States, Indian tribes, local governments, watershed groups, and critical service providers for the development and implementation of drought preparedness plans under sections 123 through 125;

(2) providing to States, Indian tribes, local governments, watershed groups, and critical service providers the Federal share, as determined by the Secretary, in consultation with the other members of the Council, of the cost of mitigating the overall risk and impacts of droughts;

(3) assisting States, Indian tribes, local governments, watershed groups, and critical service providers in the development of mitigation measures to address environmental, economic, and human health and safety issues relating to drought;

(4) expanding the technology transfer of drought and water conservation strategies and innovative water supply techniques;

(5) developing post-drought evaluations and recommendations; and

(6) supplementing, if necessary, the costs of implementing actions under section 102(a)(4).

(c) GUIDELINES.—

(1) IN GENERAL.—The Secretary, in consultation with the non-Federal co-chair and with the concurrence of the Council, shall promulgate guidelines to implement this section.

(2) GENERAL REQUIREMENTS.—The guidelines shall—

(A) ensure the distribution of amounts from the Fund within a reasonable period of time;

(B) take into consideration regional differences;

(C) take into consideration all impacts of drought in a balanced manner;

(D) prohibit the use of amounts from the Fund for Federal salaries that are not directly related to the provision of drought assistance;

(E) require that amounts from the Fund provided to States, local governments, watershed groups, and critical service providers under subsection (b)(1) be coordinated with and managed by the State in which the local governments, watershed groups, or critical service providers are located, consistent with the drought preparedness priorities and relevant water management plans in the State;

(F) require that amounts from the Fund provided to Indian tribes under subsection (b)(1) be used to implement plans that are, to the maximum extent practicable—

(i) coordinated with any State in which land of the Indian tribe is located; and

(ii) consistent with existing drought preparedness and water management plans of the State; and

(G) require that a State, Indian tribe, local government, watershed group, or critical service provider that receives Federal funds under paragraph (2) or (3) of subsection (b) pay, using amounts made available through non-Federal grants, cash donations made by non-Federal persons or entities, or any other non-Federal funds, not less than 25 percent of the total cost of carrying out a project for which Federal funds are provided under this Act.

(3) SPECIAL REQUIREMENTS APPLICABLE TO INTERSTATE WATERSHEDS.—

(A) DEVELOPMENT OF DROUGHT PREPAREDNESS PLANS.—The guidelines promulgated under paragraph (1) shall require that, to receive financial assistance under subsection (b)(1) for the development of drought preparedness plans for interstate watersheds, the States or Indian tribes in which the interstate watershed is located shall—

(i) cooperate in the development of the plan; and

(ii) in developing the plan—

(I) ensure that the plan is consistent with any applicable State and tribal water laws, policies, and agreements;

(II) ensure that the plan is consistent and coordinated with any interstate stream compacts;

(III) include the participation of any appropriate watershed groups; and

(IV) recognize that while implementation of the plan will involve further coordination among the appropriate States and Indian tribes, each State and Indian tribe has sole jurisdiction over implementation of the portion of the watershed within the State or tribal boundaries.

(B) IMPLEMENTATION OF DROUGHT PREPAREDNESS PLANS.—The guidelines promulgated under paragraph (1) shall require that, to receive financial assistance under subsection (b)(1) for the implementation of drought preparedness plans for interstate watersheds, the States or Indian tribes in which the interstate watershed is located shall, to the maximum extent practicable—

(i) cooperate in implementing the plan;

(ii) in implementing the plan—

(I) provide that the distribution of funds to all States and Indian tribes in which the watershed is located is not required; and

(II) consider the level of impact within the watershed on the affected States or Indian tribes; and

(iii) ensure that implementation of the plan does not interfere with State water rights in existence on the date of enactment of this Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund such sums as are necessary to carry out subsection (b).

SEC. 122. DROUGHT PREPAREDNESS PLANS.

(a) IN GENERAL.—The Secretary of the Interior and the Secretary of the Army shall, with the concurrence of the Council, jointly promulgate guidelines for administering a national program to provide technical and financial assistance to States, Indian tribes, local governments, watershed groups, and critical service providers for the development, maintenance, and implementation of drought preparedness plans.

(b) REQUIREMENTS.—To build on the experience and avoid duplication of efforts of Federal, State, local, tribal, and regional drought plans in existence on the date of enactment of this Act, the guidelines may recognize and incorporate those plans.

SEC. 123. FEDERAL PLANS.

(a) IN GENERAL.—The Secretary, the Secretary of the Interior, the Secretary of the Army, and other appropriate Federal agency heads shall develop and implement Federal drought preparedness plans for agencies under the jurisdiction of the appropriate Federal agency head.

(b) REQUIREMENTS.—The Federal plans—

(1) shall be integrated with each other;

(2) may be included as components of other Federal planning requirements;

(3) shall be integrated with drought preparedness plans of State, tribal, and local governments that are affected by Federal projects and programs; and

(4) shall be completed not later than 2 years after the date of enactment of this Act.

SEC. 124. STATE AND TRIBAL PLANS.

States and Indian tribes may develop and implement State and tribal drought preparedness plans that—

(1) address monitoring of resource conditions that are related to drought;

(2) identify areas that are at a high risk for drought;

(3) describes mitigation strategies to address and reduce the vulnerability of an area to drought; and

(4) are integrated with State, tribal, and local water plans in existence on the date of enactment of this Act.

SEC. 125. REGIONAL AND LOCAL PLANS.

Local governments, watershed groups, and regional water providers may develop and implement drought preparedness plans that—

(1) address monitoring of resource conditions that are related to drought;

(2) identify areas that are at a high risk for drought;

(3) describe mitigation strategies to address and reduce the vulnerability of an area to drought; and

(4) are integrated with corresponding State plans.

SEC. 126. PLAN ELEMENTS.

The drought preparedness plans developed under sections 123 through 125—

(1) shall be consistent with Federal and State laws, contracts, and policies;

(2) shall allow each State to continue to manage water and wildlife in the State;

(3) shall address the health, safety, and economic interests of those persons directly affected by drought;

(4) shall address the economic impact on resource-dependent businesses and industries, including regional tourism;

(5) may include—

(A) provisions for water management strategies to be used during various drought or water shortage thresholds, consistent with State water law;

(B) provisions to address key issues relating to drought (including public health, safety, economic factors, and environmental issues such as water quality, water quantity, protection of threatened and endangered species, and fire management);

(C) provisions that allow for public participation in the development, adoption, and implementation of drought plans;

(D) provisions for periodic drought exercises, revisions, and updates;

(E) a hydrologic characterization study to determine how water is being used during times of normal water supply availability to anticipate the types of drought mitigation actions that would most effectively improve water management during a drought;

(F) drought triggers;

(G) specific implementation actions for droughts;

(H) a water shortage allocation plan, consistent with State water law; and

(I) comprehensive insurance and financial strategies to manage the risks and financial impacts of droughts; and

(6) shall take into consideration—

(A) the financial impact of the plan on the ability of the utilities to ensure rate stability and revenue stream; and

(B) economic impacts from water shortages.

TITLE II—WILDFIRE SUPPRESSION

SEC. 201. GRANTS FOR PREPOSITIONING WILDFIRE SUPPRESSION RESOURCES.

Title II of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131 et seq.) is amended by adding at the end the following:

"SEC. 205. GRANTS FOR PREPOSITIONING WILDFIRE SUPPRESSION RESOURCES.

''(a) FINDINGS AND PURPOSE.—

''(1) FINDINGS.—Congress finds that—

''(A) droughts increase the risk of catastrophic wildfires that—

''(i) drastically alter and otherwise adversely affect the landscape for communities and the environment;

''(ii) because of the potential of such wildfires to overwhelm State wildfire suppression resources, require a coordinated response among States, Federal agencies, and neighboring countries; and

''(iii) result in billions of dollars in losses each year;

''(B) the Federal Government must, to the maximum extent practicable, prevent and suppress such catastrophic wildfires to protect human life and property;

''(C) not taking into account State, local, and private wildfire suppression costs, during the period of 2000 through 2004, the Federal Government expended more than $5,800,000,000 for wildfire suppression costs, at an average annual cost of almost $1,200,000,000;

''(D) since 1980, 2.8 percent of Federal wildfires have been responsible for an average annual cost to the Forest Service of more than $350,000,000;

''(E) the Forest Service estimates that annual national mobilization costs are between $40,000,000 and $50,000,000;

''(F) saving 10 percent of annual national mobilization costs through more effective use of local resources would reduce costs by $4,000,000 to $5,000,000 each year;

''(G) it is more cost-effective to prevent wildfires by prepositioning wildfire fighting resources to catch flare-ups than to commit millions of dollars to respond to large uncontrollable fires; and

''(H) it is in the best interest of the United States to invest in catastrophic wildfire prevention and mitigation by easing the financial burden of prepositioning wildfire suppression resources.

''(2) PURPOSE.—The purpose of this section is to encourage the mitigation and prevention of wildfires by providing financial assistance to States for prepositioning of wildfire suppression resources.

''(b) AUTHORIZATION.—Subject to the availability of funds, the Director of the Federal Emergency Management Agency (referred to in this section as the 'Director') shall reimburse a State for the cost of prepositioning wildfire suppression resources on potential multiple and large fire complexes when the Director determines, in accordance with the national and regional severity indices contained in the Forest Service handbook entitled 'Interagency Standards for Fire and Fire Aviation Operations', that a wildfire event poses a threat to life and property in the area.

''(c) ELIGIBILITY.—Wildfire suppression resources of the Federal Government, neighboring countries, and any State other than the State requesting assistance are eligible for reimbursement under this section.

''(d) REIMBURSEMENT.—

''(1) IN GENERAL.—The Director may reimburse a State for the costs of prepositioning of wildfire suppression resources of the entities specified in subsection (c), including mobilization to, and demobilization from, the staging or prepositioning area.

''(2) REQUIREMENTS.—For a State to receive reimbursement under paragraph (1)—

''(A) any resource provided by an entity specified in subsection (c) shall have been specifically requested by the State seeking reimbursement; and

''(B) staging or prepositioning costs—

''(i) shall be expended during the approved prepositioning period; and

''(ii) shall be reasonable.

''(3) LIMITATION.—The amount of all reimbursements made under this subsection during any year shall not exceed $50,000,000.''.

Mr. JOHNSON. Mr. President, I rise today in support of bipartisan National Drought Preparedness Act of 2005. For the last 5 years a devastating drought has forced many families across South Dakota and the United States to make difficult life-changing decisions about their future in agriculture. Many of our Nation's hard-working producers have had to abandon their farms, and the family farm life has been threatened for too many people.

I was hopeful that the drought measures I have helped pass in the last 5 years would assist producers in weathering the current drought. With my support, the Senate, and ultimately Congress, agreed to legislation providing either or agriculture disaster assistance packages for 2001–2002 and 2003–2004. While this assistance is greatly appreciated by those suffering from this natural disaster, I am concerned for our future prospects for drought aid. Given the President's reluctance to fund crucial USDA farm bill programs in his proposed fiscal year 2006 budget, his insistence on cannibalizing $3 billion from the Conservation Security Program, CSP to fund the 2003–2004 package, which should in fact be recognized as an uncapped entitlement provision, and a historically high budgetary deficit, I am concerned at our prospects of securing substantive monies for future disasters. I will continue to work with my Senate colleagues to ensure adequate dollars for South Dakota, but we must examine more comprehensive measures for addressing drought.

That National Drought Preparedness Act will help us better prepare for future droughts and reduce the need for large ad hoc disaster programs that may cannibalize funds from other agricultural programs. I am fully prepared to support special disaster assistance when it is necessary, but with this act made law, producers, tribes, States, and Federal agencies will be much better prepared for future droughts.

This act will do several things that will significantly increase our ability to deal with drought conditions. The bill establishes, in the office of the Secretary of Agriculture, a National Drought Council to oversee the development of a national drought policy action plan. This plan will be the blueprint for dealing with and preparing for drought. The Federal government has plans for dealing with floods and hurricanes, and we need the same kind of plan for the slow, dry disaster that is drought. This bill recognizes drought as the natural disaster it is.

The act also creates the National Office of Drought Preparedness. This would be the permanent body that assists the National Drought Council in the formulation and carrying out of the national drought policy action plan.

A drought assistance fund will be established by this act, to assist State and local governments in their development and implementation of drought preparedness plans. The act will also provide assistance for the rapid response to wildfires, which is critical to mitigating the effects of a prolonged drought in forested areas, like we have in western South Dakota.

Lastly, the act provides for the development of a national drought forecasting and monitoring network, that will help forecast the onset of droughts better and improve reporting on current droughts.

I am encouraged by what the National Drought Preparedness Act of 2005 has to offer to the farmers and ranchers of our great country. We must treat drought like all other disasters are treated, and take an aggressive stance toward minimizing its effect on communities across America. That is why I am pleased to be an original cosponsor of this important bipartisan piece of legislation.

By Mr. COLEMAN (for himself and Mrs. CLINTON):

S. 803. A bill to amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to provide parity with respect to substance abuse treatment benefits under group health plans and health insurance coverage; to the Committee on Health, Education, Labor, and Pensions.

Mr. COLEMAN. Mr. President, I am pleased to introduce the Help Expand Access to Recovery and Treatment (HEART) Act of 2005 with my friend and colleague, Senator CLINTON of New York.

By passing this life-saving legislation, Congress would provide equitable access to substance abuse treatment services for 23 million adults and children who need treatment for the disease of alcoholism and other drug dependencies.

HEART would put the decision of whether or not consumers are granted substance abuse treatment services in the hands of doctors and trained addiction professionals, and patients. At least 75 percent of individuals who suffer from alcoholism have access to private health insurance. However, fewer than 70 percent of employer-provided health plans cover alcoholism and drug treatment at the same level as other medical conditions.

Our bill eliminates this inequitable coverage of medical conditions so those who need treatment receive it.

I look forward to working with my colleagues to pass this legislation that is not just important to our nation's economy and the health of our workforce but to the quality of life for millions of Americans and their families.

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. 803

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Help Expand Access to Recovery and Treatment Act of 2005'' or the ''HEART Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Substance abuse, if left untreated, is a medical emergency and a private and public health crisis.

(2) Nothing in this Act should be construed as prohibiting application of the concept of parity to substance abuse treatment provided by faith-based treatment providers.

SEC. 3. PARITY IN SUBSTANCE ABUSE TREATMENT BENEFITS.

(a) GROUP HEALTH PLANS.—

(1) PUBLIC HEALTH SERVICE ACT AMENDMENTS.—

(A) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–4 et seq.) is amended by adding at the end the following new section:

''SEC. 2707. PARITY IN THE APPLICATION OF TREATMENT LIMITATIONS AND FINANCIAL REQUIREMENTS TO SUBSTANCE ABUSE TREATMENT BENEFITS.

''(a) IN GENERAL.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and substance abuse treatment benefits, the plan or coverage shall not impose treatment limitations or financial requirements on the substance abuse treatment benefits unless similar limitations or requirements are imposed for medical and surgical benefits.

''(b) CONSTRUCTION.—Nothing in this section shall be construed—

''(1) as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any substance abuse treatment benefits; or

''(2) to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

''(c) EXEMPTIONS.—

''(1) SMALL EMPLOYER EXEMPTION.—

''(A) IN GENERAL.—This section shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) for any plan year of a small employer.

''(B) SMALL EMPLOYER.—For purposes of subparagraph (A), the term 'small employer' means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

''(C) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this paragraph—

''(i) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—Rules similar to the rules under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986 shall apply for purposes of treating persons as a single employer.

''(ii) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

''(iii) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

''(2) INCREASED COST EXEMPTION.—This section shall not apply with respect to a group health plan (or health insurance coverage offered in connection with a group health plan) if the application of this section to such plan (or to such coverage) results in an increase in the cost under the plan (or for such coverage) of at least 1 percent.

''(d) SEPARATE APPLICATION TO EACH OPTION OFFERED.—In the case of a group health plan that offers a participant or beneficiary 2 or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

''(e) DEFINITIONS.—For purposes of this section:

''(1) TREATMENT LIMITATION.—The term 'treatment limitation' means, with respect to benefits under a group health plan or health insurance coverage, any day or visit limits imposed on coverage of benefits under the plan or coverage during a period of time.

''(2) FINANCIAL REQUIREMENT.—The term 'financial requirement' means, with respect to benefits under a group health plan or health insurance coverage, any deductible, coinsurance, or cost-sharing or an annual or lifetime dollar limit imposed with respect to the benefits under the plan or coverage.

''(3) MEDICAL OR SURGICAL BENEFITS.—The term 'medical or surgical benefits' means benefits with respect to medical or surgical services, as defined under the terms of the plan or coverage (as the case may be), but does not include substance abuse treatment benefits.

''(4) SUBSTANCE ABUSE TREATMENT BENEFITS.—The term 'substance abuse treatment benefits' means benefits with respect to substance abuse treatment services.

''(5) SUBSTANCE ABUSE TREATMENT SERVICES.—The term 'substance abuse treatment services' means any of the following items and services provided for the treatment of substance abuse:

''(A) Inpatient treatment, including detoxification.

''(B) Nonhospital residential treatment.

''(C) Outpatient treatment, including screening and assessment, medication management, individual, group, and family counseling, and relapse prevention.

''(D) Prevention services, including health education and individual and group counseling to encourage the reduction of risk factors for substance abuse.

''(6) SUBSTANCE ABUSE.—The term 'substance abuse' includes chemical dependency.

''(f) NOTICE.—A group health plan under this part shall comply with the notice requirement under section 714(f) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this section as if such section applied to such plan.''.

(B) CONFORMING AMENDMENT.—Section 2723(c) of such Act (42 U.S.C. 300gg–23(c)) is amended by striking ''section 2704'' and inserting ''sections 2704 and 2707''.

(2) ERISA AMENDMENTS.—

(A) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following new section:

''SEC. 714. PARITY IN THE APPLICATION OF TREATMENT LIMITATIONS AND FINANCIAL REQUIREMENTS TO SUBSTANCE ABUSE TREATMENT BENEFITS.

''(a) IN GENERAL.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and substance abuse treatment benefits, the plan or coverage shall not impose treatment limitations or financial requirements on the substance abuse treatment benefits unless similar limitations or requirements are imposed for medical and surgical benefits.

''(b) CONSTRUCTION.—Nothing in this section shall be construed—

''(1) as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any substance abuse treatment benefits; or

''(2) to prevent a group health plan or a health insurance issuer offering group health

insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

''(c) EXEMPTIONS.—

''(1) SMALL EMPLOYER EXEMPTION.—

''(A) IN GENERAL.—This section shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) for any plan year of a small employer.

''(B) SMALL EMPLOYER.—For purposes of subparagraph (A), the term 'small employer' means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

''(C) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this paragraph—

''(i) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—Rules similar to the rules under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986 shall apply for purposes of treating persons as a single employer.

''(ii) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

''(iii) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

''(2) INCREASED COST EXEMPTION.—This section shall not apply with respect to a group health plan (or health insurance coverage offered in connection with a group health plan) if the application of this section to such plan (or to such coverage) results in an increase in the cost under the plan (or for such coverage) of at least 1 percent.

''(d) SEPARATE APPLICATION TO EACH OPTION OFFERED.—In the case of a group health plan that offers a participant or beneficiary 2 or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

''(e) DEFINITIONS.—For purposes of this section:

''(1) TREATMENT LIMITATION.—The term 'treatment limitation' means, with respect to benefits under a group health plan or health insurance coverage, any day or visit limits imposed on coverage of benefits under the plan or coverage during a period of time.

''(2) FINANCIAL REQUIREMENT.—The term 'financial requirement' means, with respect to benefits under a group health plan or health insurance coverage, any deductible, coinsurance, or cost-sharing or an annual or lifetime dollar limit imposed with respect to the benefits under the plan or coverage.

''(3) MEDICAL OR SURGICAL BENEFITS.—The term 'medical or surgical benefits' means benefits with respect to medical or surgical services, as defined under the terms of the plan or coverage (as the case may be), but does not include substance abuse treatment benefits.

''(4) SUBSTANCE ABUSE TREATMENT BENEFITS.—The term 'substance abuse treatment benefits' means benefits with respect to substance abuse treatment services.

''(5) SUBSTANCE ABUSE TREATMENT SERVICES.—The term 'substance abuse treatment services' means any of the following items and services provided for the treatment of substance abuse:

''(A) Inpatient treatment, including detoxification.

''(B) Nonhospital residential treatment.

''(C) Outpatient treatment, including screening and assessment, medication management, individual, group, and family counseling, and relapse prevention.

''(D) Prevention services, including health education and individual and group counseling to encourage the reduction of risk factors for substance abuse.

''(6) SUBSTANCE ABUSE.—The term 'substance abuse' includes chemical dependency.

''(f) NOTICE UNDER GROUP HEALTH PLAN.—The imposition of the requirements of this section shall be treated as a material modification in the terms of the plan described in section 102(a), for purposes of assuring notice of such requirements under the plan; except that the summary description required to be provided under section 104(b)(1) with respect to such modification shall be provided by not later than 60 days after the first day of the first plan year in which such requirements apply.''.

(B) CONFORMING AMENDMENTS.—

(i) Section 731(c) of such Act (29 U.S.C. 1191(c)) is amended by striking ''section 711'' and inserting ''sections 711 and 714''.

(ii) Section 732(a) of such Act (29 U.S.C. 1191a(a)) is amended by striking ''section 711'' and inserting ''sections 711 and 714''.

(iii) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 713 the following new item:

''714. Parity in the application of treatment limitations and financial requirements to substance abuse treatment benefits''.

(3) INTERNAL REVENUE CODE AMENDMENTS.—

(A) IN GENERAL.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986 (relating to other requirements) is amended by adding at the end the following new section:

''SEC. 9813. PARITY IN THE APPLICATION OF TREATMENT LIMITATIONS AND FINANCIAL REQUIREMENTS TO SUBSTANCE ABUSE TREATMENT BENEFITS.

''(a) IN GENERAL.—In the case of a group health plan that provides both medical and surgical benefits and substance abuse treatment benefits, the plan shall not impose treatment limitations or financial requirements on the substance abuse treatment benefits unless similar limitations or requirements are imposed for medical and surgical benefits.

''(b) CONSTRUCTION.—Nothing in this section shall be construed—

''(1) as requiring a group health plan to provide any substance abuse treatment benefits; or

''(2) to prevent a group health plan from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

''(c) EXEMPTIONS.—

''(1) SMALL EMPLOYER EXEMPTION.—

''(A) IN GENERAL.—This section shall not apply to any group health plan for any plan year of a small employer.

''(B) SMALL EMPLOYER.—For purposes of subparagraph (A), the term 'small employer' means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

''(C) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this paragraph—

''(i) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—Rules similar to the rules under subsections (b), (c), (m), and (o) of section 414 shall apply for purposes of treating persons as a single employer.

''(ii) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

''(iii) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

''(2) INCREASED COST EXEMPTION.—This section shall not apply with respect to a group health plan if the application of this section to such plan results in an increase in the cost under the plan of at least 1 percent.

''(d) SEPARATE APPLICATION TO EACH OPTION OFFERED.—In the case of a group health plan that offers a participant or beneficiary 2 or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

''(e) DEFINITIONS.—For purposes of this section:

''(1) TREATMENT LIMITATION.—The term 'treatment limitation' means, with respect to benefits under a group health plan, any day or visit limits imposed on coverage of benefits under the plan during a period of time.

''(2) FINANCIAL REQUIREMENT.—The term 'financial requirement' means, with respect to benefits under a group health plan, any deductible, coinsurance, or cost-sharing or an annual or lifetime dollar limit imposed with respect to the benefits under the plan.

''(3) MEDICAL OR SURGICAL BENEFITS.—The term 'medical or surgical benefits' means benefits with respect to medical or surgical services, as defined under the terms of the plan, but does not include substance abuse treatment benefits.

''(4) SUBSTANCE ABUSE TREATMENT BENEFITS.—The term 'substance abuse treatment benefits' means benefits with respect to substance abuse treatment services.

''(5) SUBSTANCE ABUSE TREATMENT SERVICES.—The term 'substance abuse treatment services' means any of the following items and services provided for the treatment of substance abuse:

''(A) Inpatient treatment, including detoxification.

''(B) Nonhospital residential treatment.

''(C) Outpatient treatment, including screening and assessment, medication management, individual, group, and family counseling, and relapse prevention.

''(D) Prevention services, including health education and individual and group counseling to encourage the reduction of risk factors for substance abuse.

''(6) SUBSTANCE ABUSE.—The term 'substance abuse' includes chemical dependency.''.

(B) CONFORMING AMENDMENTS.—

(i) Section 4980D(d)(1) of such Code is amended by striking ''section 9811'' and inserting ''sections 9811 and 9813''.

(ii) The table of sections of subchapter B of chapter 100 of such Code is amended by adding at the end the following new item:

''9813. Parity in the application of treatment limitations and financial requirements to substance abuse treatment benefits''.

(b) INDIVIDUAL HEALTH INSURANCE.—

(1) AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.—Part B of title XXVII of the

Public Health Service Act (42 U.S.C. 300gg–41 et seq.) is amended by inserting after section 2752 the following new section:

"SEC. 2753. PARITY IN THE APPLICATION OF TREATMENT LIMITATIONS AND FINANCIAL REQUIREMENTS TO SUBSTANCE ABUSE BENEFITS.

''(a) IN GENERAL.—The provisions of section 2707 (other than subsection (e)) shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as it applies to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.

''(b) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 714(f) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) as if such section applied to such issuer and such issuer were a group health plan.''.

(2) CONFORMING AMENDMENT.—Section 2762(b)(2) of such Act (42 U.S.C. 300gg–62(b)(2)) is amended by striking ''section 2751'' and inserting ''sections 2751 and 2753''.

(c) EFFECTIVE DATES.—

(1) GROUP HEALTH PLANS.—Subject to paragraph (3), the amendments made by subsection (a) apply with respect to group health plans for plan years beginning on or after January 1, 2006.

(2) INDIVIDUAL HEALTH INSURANCE.—The amendments made by subsection (b) apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after January 1, 2006.

(3) SPECIAL RULE.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by subsection (a) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) January 1, 2006.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by subsection (a) shall not be treated as a termination of such collective bargaining agreement.

(d) COORDINATED REGULATIONS.—Section 104(1) of the Health Insurance Portability and Accountability Act of 1996 is amended by striking ''this subtitle (and the amendments made by this subtitle and section 401)'' and inserting ''the provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, and the provisions of parts A and C of title XXVII of the Public Health Service Act, and chapter 100 of the Internal Revenue Code of 1986''.

(e) PREEMPTION.—Nothing in the amendments made by this section shall be construed to preempt any provision of State law that provides protections to individuals that are greater than the protections provided under such amendments.

By Mr. CRAIG (for himself and Mr. AKAKA):

S. 806. A bill to amend title 38, United States Code, to provide a traumatic injury protection rider to servicemembers insured under section 1967(a)(1) of such title; to the Committee on Veterans' Affairs.

Mr. CRAIG. Mr. President, I rise on behalf of myself and the distinguished ranking member of the Veterans Committee, Senator AKAKA, to introduce legislation providing a traumatic injury protection rider for servicemembers. I urge all my colleagues to review this important legislation and support its enactment, and 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. 806

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

SECTION 1. TRAUMATIC INJURY PROTECTION.

(a) IN GENERAL.—Subchapter III of chapter 19 of title 38, United States Code, is amended—

(1) in section 1965, by adding at the end the following:

''(11) The term 'activities of daily living' means the inability to independently perform 2 of the 6 following functions:

''(A) Bathing.

''(B) Continence.

''(C) Dressing.

''(D) Eating.

''(E) Toileting.

''(F) Transferring.''; and

(2) by adding at the end the following:

''§ 1980A. Traumatic injury protection

''(a) A member who is insured under subparagraph (A)(i), (B), or (C)(i) of section 1967(a)(1) shall automatically be issued a traumatic injury protection rider that will provide for a payment not to exceed $100,000 if the member, while so insured, sustains a traumatic injury that results in a loss described in subsection (b)(1). The maximum amount payable for all injuries resulting from the same traumatic event shall be limited to $100,000. If a member suffers more than 1 such loss as a result of traumatic injury, payment will be made in accordance with the schedule in subsection (d) for the single loss providing the highest payment.

''(b)(1) A member who is issued a traumatic injury protection rider under subsection (a) is insured against—

''(A) total and permanent loss of sight;

''(B) loss of a hand or foot by severance at or above the wrist or ankle;

''(C) total and permanent loss of speech;

''(D) total and permanent loss of hearing in both ears;

''(E) loss of thumb and index finger of the same hand by severance at or above the metacarpophalangeal joints;

''(F) quadriplegia, paraplegia, or hemiplegia;

''(G) burns greater than second degree, covering 30 percent of the body or 30 percent of the face; and

''(H) coma or the inability to carry out the activities of daily living resulting from traumatic injury to the brain.

''(2) For purposes of this subsection—

''(A) the term 'quadriplegia' means the complete and irreversible paralysis of all 4 limbs;

''(B) the term 'paraplegia' means the complete and irreversible paralysis of both lower limbs; and

''(C) the term 'hemiplegia' means the complete and irreversible paralysis of the upper and lower limbs on 1 side of the body.

''(3) In no case will a member be covered against loss resulting from—

''(A) attempted suicide, while sane or insane;

''(B) an intentionally self-inflicted injury or any attempt to inflict such an injury;

''(C) illness, whether the loss results directly or indirectly;

''(D) medical or surgical treatment of illness, whether the loss results directly or indirectly;

''(E) any infection other than—

''(i) a pyogenic infection resulting from a cut or wound; or

''(ii) a bacterial infection resulting from ingestion of a contaminated substance;

''(F) the commission of or attempt to commit a felony;

''(G) being legally intoxicated or under the influence of any narcotic unless administered or consumed on the advice of a physician; or

''(H) willful misconduct as determined by a military court, civilian court, or administrative body.

''(c) A payment under this section may be made only if—

''(1) the member is insured under Servicemembers' Group Life Insurance when the traumatic injury is sustained;

''(2) the loss results directly from that traumatic injury and from no other cause; and

''(3) the member suffers the loss not later than 90 days after sustaining the traumatic injury, except, if the loss is quadriplegia, paraplegia, or hemiplegia, the member suffers the loss not later than 365 days after sustaining the traumatic injury.

''(d) Payments under this section for losses described in subsection (b)(1) will be made in accordance with the following schedule:

''(1) Loss of both hands, $100,000.

''(2) Loss of both feet, $100,000.

''(3) Inability to carry out activities of daily living resulting from traumatic brain injury, $100,000.

''(4) Burns greater than second degree, covering 30 percent of the body or 30 percent of the face, $100,000.

''(5) Loss of sight in both eyes, $100,000.

''(6) Loss of 1 hand and 1 foot, $100,000.

''(7) Loss of 1 hand and sight of 1 eye, $100,000.

''(8) Loss of 1 foot and sight of 1 eye, $100,000.

''(9) Loss of speech and hearing in 1 ear, $100,000.

''(10) Total and permanent loss of hearing in both ears, $100,000.

''(11) Quadriplegia, $100,000.

''(12) Paraplegia, $75,000.

''(13) Loss of 1 hand, $50,000.

''(14) Loss of 1 foot, $50,000.

''(15) Loss of sight one eye, $50,000.

''(16) Total and permanent loss of speech, $50,000.

''(17) Loss of hearing in 1 ear, $50,000.

''(18) Hemiplegia, $50,000.

''(19) Loss of thumb and index finger of the same hand, $25,000.

''(20) Coma resulting from traumatic brain injury, $50,000 at time of claim and $50,000 at end of 6-month period.

''(e)(1) During any period in which a member is insured under this section and the member is on active duty, there shall be deducted each month from the member's basic or other pay until separation or release from active duty an amount determined by the Secretary of Veterans Affairs as the premium allocable to the pay period for providing traumatic injury protection under this section (which shall be the same for all such members) as the share of the cost attributable to provided coverage under this section, less any costs traceable to the extra hazards of such duty in the uniformed services.

''(2) During any month in which a member is assigned to the Ready Reserve of a uniformed service under conditions which meet the qualifications set forth in section 1965(5)(B) of this title and is insured under a

policy of insurance purchased by the Secretary of Veterans Affairs under section 1966 of this title, there shall be contributed from the appropriation made for active duty pay of the uniformed service concerned an amount determined by the Secretary of Veterans Affairs (which shall be the same for all such members) as the share of the cost attributable to provided coverage under this section, less any costs traceable to the extra hazards of such duty in the uniformed services. Any amounts so contributed on behalf of any member shall be collected by the Secretary of the concerned service from such member (by deduction from pay or otherwise) and shall be credited to the appropriation from which such contribution was made in advance on a monthly basis.

''(3) The Secretary of Veterans Affairs shall determine the premium amounts to be charged for traumatic injury protection coverage provided under this section.

''(4) The premium amounts shall be determined on the basis of sound actuarial principles and shall include an amount necessary to cover the administrative costs to the insurer or insurers providing such insurance.

''(5) Each premium rate for the first policy year shall be continued for subsequent policy years, except that the rate may be adjusted for any such subsequent policy year on the basis of the experience under the policy, as determined by the Secretary of Veterans Affairs in advance of that policy year.

''(6) The cost attributable to insuring such member under this section, less the premiums deducted from the pay of the member's uniformed service, shall be paid by the Secretary of Defense to the Secretary of Veterans Affairs. This amount shall be paid on a monthly basis, and shall be due within 10 days of the notice provided by the Secretary of Veterans Affairs to the Secretary of the concerned uniformed service.

''(7) The Secretary of Defense shall provide the amount of appropriations required to pay expected claims in a policy year, as determined according to sound actuarial principles by the Secretary of Veterans Affairs.

''(8) The Secretary of Defense shall forward an amount to the Secretary of Veterans Affairs that is equivalent to half the anticipated cost of claims for the current fiscal year, upon the effective date of this legislation.

''(f) The Secretary of Defense shall certify whether any member claiming the benefit under this section is eligible.

''(g) Payment for a loss resulting from traumatic injury will not be made if the member dies not more than 7 days after the date of the injury. If the member dies before payment to the member can be made, the payment will be made according to the member's most current beneficiary designation under Servicemembers' Group Life Insurance, or a by law designation, if applicable.

''(h) Coverage for loss resulting from traumatic injury provided under this section shall cease at midnight on the date of the member's separation from the uniformed service. Payment will not be made for any loss resulting from injury incurred after the date a member is separated from the uniformed services.

''(i) Insurance coverage provided under this section is not convertible to Veterans' Group Life Insurance.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 19 of title 38, United States Code, is amended by adding after the item relating to section 1980 the following:

''1980A. Traumatic injury protection. ''.

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall take effect on the first day of the first month beginning more than 180 days after the date of enactment of this Act.

By Mr. CRAIG (for himself, Mr. CRAPO, and Mr. SMITH):

S. 807. A bill to amend the Federal Land Policy and Management Act of 1976 to provide owners of non-Federal lands with a reliable method of receiving compensation for damages resulting from the spread of wildfire from nearby forested National Forest System lands or Bureau of Land Management lands, when those forested Federal lands are not maintained in the forest health status known as condition class 1; to the Committee on Energy and Natural Resources.

Mr. CRAIG. Mr. President, I rise today to introduce the Enhanced Safety from Wildfire Act of 2005. I am joined by my colleagues Mr. CRAPO and Mr. SMITH.

The legislation we are introducing would amend the Federal Land Policy and Management Act of 1976 to make it possible for non-federal land owners to receive compensation for a loss of property as a result of wildfire spreading from Federal land that has not been managed as Condition Class 1.

As we all know, in recent years, there has been a significant amount of injury and loss of property resulting from the spread of wildfire from Federal forested lands to non-Federal lands. Recent wildfires on federal forested lands have shown that lands managed under approved forest health management practices are less susceptible to wildfire, or are subjected to less severe wildfire, than similarly forested lands that are not actively managed.

There is a continuing and growing threat to the safety of communities, individuals, homes and other property, and timber on non-Federal lands that adjoin Federal forested lands because of the unnatural accumulation of forest fuels on these Federal lands and the lack of active Federal management of these lands.

The use of approved forest health management practices to create forest fire ''buffer zones'' between forested Federal lands and adjacent non-Federal lands would reduce the occurrence of wildfires on forested federal lands or, at least, limit their spread to non-Federal lands and the severity of the resulting damage.

This legislation requires the agencies to manage a ''buffer zone'' on Federal land, greater than 6,400 acres, that is adjacent to non-Federal land. When forested Federal lands adjacent to non-Federal lands are not adequately managed with a ''buffer zone'' and wildfire occurs, the legislation states the owners of the non-Federal lands are eligible for compensation for damages resulting from the spread of wildfire to their lands. The legislation sets minimum criteria for non-Federal land to be eligible for compensation.

Our federal land management agencies need to take responsibility for the impacts that occur on non-Federal land as a result of a lack of management on federal land. As a society, we have come to expect that our neighbors take responsibility for their actions and I feel the federal land management agencies should not escape this responsibility either.

In the next few weeks, the weather will heat up, the drought ridden West will become drier, wildfire danger will rise, and I fear we will once again hear reports regarding the loss of property.

I know this legislation may not be the answer to solving our Federal land management problems and I am willing to discuss other options, but I know that until we address the heart of this issue, homes, private land, and communities will continue to be at risk because of poor Federal land management. Being a good neighbor means being responsible for your actions.

By Mr. DURBIN (for himself and Ms. COLLINS):

S. 808. A bill to encourage energy conservation through bicycling; to the Committee on Commerce, Science, and Transportation.

Mr. DURBIN. Madam President, I rise today to introduce the Conserve by Bike Act to promote energy conservation and improve public health. I am pleased to be joined by my colleague from Maine, Senator SUSAN COLLINS, in introducing this measure. This legislation addresses one part of our Nation's energy challenges. Although there is no single solution to solve our energy problems, I believe that every possible approach must be considered.

Our Nation would realize several benefits from the increased use of bicycle transportation, including lessened dependence on foreign oil and prevention of harmful air emissions. Currently, less than one trip in one hundred, .88 percent, is by bicycle. If we can increase cycling use to one and a half trips per hundred, which is less than one bike trip every two weeks for the average person, we will save more than 462 million gallons of gasoline in a year, worth more than $721 million. That is the equivalent of one full day per year in which the U.S. will not need to import any foreign oil.

In addition to fostering greater energy security, this bill will help mitigate air quality challenges, which can be harmful to public health and the environment. Unlike automotive transportation, bicycling is emission-free.

The Conserve by Bike Act encourages bicycling through two key components: a pilot program and a research project. The Conserve by Bike Pilot Program established by this legislation would be implemented by the U.S. Department of Transportation. The Department would fund up to ten pilot projects throughout the country that would utilize education and marketing tools to encourage people to convert some of their car trips to bike trips. Each of these pilot projects must: (1) document project results and energy conserved; (2) facilitate partnerships among stakeholders in two or more of the following fields: transportation, law enforcement, education, public health,

and the environment; (3) maximize current bicycle facility investments; (4) demonstrate methods that can be replicated in other locations; and (5) produce ongoing programs that are sustained by local resources.

This legislation also directs the Transportation Research Board of the National Academy of Sciences to conduct a research project on converting car trips to bike trips. The study will consider: (1) what car trips Americans can reasonably be expected to make by bike, given such factors as weather, land use, and traffic patterns, carrying capacity of bicycles, and bicycle infrastructure; (2) what energy savings would result, or how much energy could be conserved, if these trips were converted from car to bike, (3) the cost-benefit analysis of bicycle infrastructure investments; and (4) what factors could encourage more car trips to be replaced with bike trips. The study also will identify lessons we can learn from the documented results of the pilot programs.

The Conserve by Bike Program is a small investment that has the potential to produce significant returns: greater independence from foreign oil and a healthier environment and population. The Conserve by Bike Act authorizes a total of $6.2 million to carry out the pilot programs and research. A total of $5,150,000 will be used to implement the pilot projects; $300,000 will be used by the Department of Transportation to coordinate, publicize, and disseminate the results of the program; and $750,000 will be utilized for the research study.

The provisions in this bill enjoy strong, bipartisan support and have passed by unanimous consent as an amendment to a previous Senate energy package. The measure is endorsed by the League of American Bicyclists, which has over 300,000 affiliates, as well as the Association of Pedestrian and Bicycle Professionals, Rails to Trails Conservancy, Thunderhead Alliance, Bikes Belong Coalition, Adventure Cycling, International Mountain Bicycling Association, Chicagoland Bicycle Federation, and the League of Illinois Bicyclists.

I ask that the text of the legislation be printed in the RECORD.

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

S. 808

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

SECTION 1. CONSERVE BY BICYCLING PROGRAM.

(a) DEFINITIONS.—In this section:

(1) PROGRAM.—The term ''program'' means the Conserve by Bicycling Program established by subsection (b).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(b) ESTABLISHMENT.—There is established within the Department of Transportation a program to be known as the ''Conserve by Bicycling Program''.

(c) PROJECTS.—

(1) IN GENERAL.—In carrying out the program, the Secretary shall establish not more than 10 pilot projects that are—

(A) dispersed geographically throughout the United States; and

(B) designed to conserve energy resources by encouraging the use of bicycles in place of motor vehicles.

(2) REQUIREMENTS.—A pilot project described in paragraph (1) shall—

(A) use education and marketing to convert motor vehicle trips to bicycle trips;

(B) document project results and energy savings (in estimated units of energy conserved);

(C) facilitate partnerships among interested parties in at least 2 of the fields of—

(i) transportation;

(ii) law enforcement;

(iii) education;

(iv) public health;

(v) environment; and

(vi) energy;

(D) maximize bicycle facility investments;

(E) demonstrate methods that may be used in other regions of the United States; and

(F) facilitate the continuation of ongoing programs that are sustained by local resources.

(3) COST SHARING.—At least 20 percent of the cost of each pilot project described in paragraph (1) shall be provided from State or local sources.

(d) ENERGY AND BICYCLING RESEARCH STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall enter into a contract with the National Academy of Sciences for, and the National Academy of Sciences shall conduct and submit to Congress a report on, a study on the feasibility of converting motor vehicle trips to bicycle trips.

(2) COMPONENTS.—The study shall—

(A) document the results or progress of the pilot projects under subsection (b);

(B) determine the type and duration of motor vehicle trips that people in the United States may feasibly make by bicycle, taking into consideration factors such as—

(i) weather;

(ii) land use and traffic patterns;

(iii) the carrying capacity of bicycles; and

(iv) bicycle infrastructure;

(C) determine any energy savings that would result from the conversion of motor vehicle trips to bicycle trips;

(D) include a cost-benefit analysis of bicycle infrastructure investments; and

(E) include a description of any factors that would encourage more motor vehicle trips to be replaced with bicycle trips.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $6,200,000, to remain available until expended, of which—

(1) $5,150,000 shall be used to carry out pilot projects described in subsection (c);

(2) $300,000 shall be used by the Secretary to coordinate, publicize, and disseminate the results of the program; and

(3) $750,000 shall be used to carry out subsection (d).

Ms. COLLINS. Mr. President, I am pleased to join with my colleague from Illinois in reintroducing the Conserve by Bike Act to recognize and promote bicycling's important impact on energy savings and public health.

With America's dependence on foreign oil, it is vital that we look to the contribution that bike travel can make toward solving our Nation's energy challenges. The legislation we are reintroducing today would establish a Conserve by Bike pilot program that would oversee pilot projects throughout the country designed to conserve energy resources by providing education and marketing tools to convert car trips into bike trips. Right now, fewer than 1 trip in 100 nationwide is by bicycle. If we could increase this statistic to 1½ trips per 100, we could save over 462 million gallons of gasoline per year, worth nearly $1 billion.

While more bike trips would benefit our energy conservation efforts, additional bicycling activity would also help improve the Nation's public health. According to the U.S. Surgeon General, fewer than one-third of Americans meet Federal recommendations to engage in at least 30 minutes of moderate physical activity 5 days a week. Even more disturbing is the fact that approximately 300,000 American deaths a year are associated with obesity. By promoting biking, we are working to ensure that Americans, young and old, will increase their physical activity.

In my home State of Maine, citizen activists have led the way in encouraging their fellow Mainers to use bicycling as an alternative mode of transportation. Founded in 1992, the Bicycle Coalition of Maine, BCM, has grown substantially in its first decade plus of operation. In 1996, when BCM hired its current executive director, Jeffrey Miller, the organization had 200 individual and family memberships. Today, it has over 1,700. For a State of less than 1.3 million residents—many of them elderly—BCM's broad membership is especially impressive.

Over the years, this group has advocated increased bicycle access to Maine's roads and bridges, organized the first ''Bike to Work Day'' in our State, initiated bicycle safety education in our classrooms—teaching more than 60,000 schoolchildren in over 500 Maine schools—and produced ''Share the Road'' public service announcements for television stations statewide, among numerous other accomplishments.

No matter how energetic, committed, and organized BCM and other bicycle activists are, however, these groups cannot accomplish their mission alone. There is an important role for Government to play in encouraging more individuals to make bicycling their alternative mode of transportation. In Maine, BCM has built strong, active partnerships with local governments and the State's Department of Transportation. These key relationships have benefitted bicyclists throughout Maine and, in doing so, have encouraged more Mainers to ride their bikes on a regular basis. Indeed, more than 4 percent of Maine's commuters currently bike or walk, ranking the State 14th in that category nationwide. I believe the Federal Government needs to become more engaged in encouraging bicycling as a means of alternative transportation, and the Conserve by Bike Act would contribute to the worthy goal of convincing more Americans to travel by bicycle.

The Senate is already on record in support of this bill. In the previous

Congress, during consideration of the Energy bill, identical legislation was accepted by voice vote as an amendment. I urge my colleagues to maintain their support for the Conserve by Bike Act.

By Mr. LAUTENBERG (for himself, Mr. CORZINE, and Mrs. BOXER):

S. 809. A bill to establish certain duties for pharmacies when pharmacists employed by the pharmacies refuse to fill valid prescriptions for drugs or devices on the basis of personal beliefs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. LAUTENBERG. Mr. President, today I am introducing the Access to Legal Pharmaceuticals Act (ALPhA). I want to thank Senators CORZINE and BOXER for cosponsoring this important piece of legislation.

This bill is simple. It ensures timely access to contraception and is crucial to protecting a woman's health and autonomy, and to keeping pharmacists and politicians out of personal, private matters.

This bill would protect an individual's access to legal contraception by requiring that if a pharmacist has a personal objection to filling a legal prescription for a drug or device, the pharmacy would be required to ensure that the prescription is filled by another pharmacist employed by the pharmacy who does not have a personal objection.

I came to the Senate 22 years ago. We've made a lot of progress, in women's health and women's rights since then. But today it seems like we're fighting to keep from sliding backward in some areas.

An individual's fundamental right of access to birth control is being attacked. Reports of some pharmacists refusing to fill prescriptions have been documented in twelve states.

The women that were denied were young and old; married and single; with children and without. Even women who were using birth control for other medical reasons aside from preventing conception have been denied access to the birth control pill.

If you told me 10 years ago that a woman's right to use contraception would be in jeopardy, I probably wouldn't have believed it. Today I have to believe it—because it's happening.

In Texas last year, a pharmacist refused to fill a legal prescription for the ''morning after'' contraceptive for a woman who had been raped. First she was assaulted and violated—then her rights were violated by a self-righteous pharmacist who didn't want to do his job.

In Milwaukee, a married woman in her mid–40s with four children got a prescription from her doctor for a morning-after pill. A pharmacist refused to do his job. He wouldn't fill the prescription.

A handful of pharmacists are saying they have a ''right'' to ignore prescriptions written by medical doctors.

Well, they do have a right. They have a right to get a new job if they don't want to fill legal prescriptions.

But nobody has a right to come between any person and their doctor. Not the government . . . not an insurance company . . . and not a pharmacist.

The American Pharmaceutical Association has adopted an ''Oath of Pharmacists.'' The last part of the oath states: I take these vows voluntarily with the full realization of the responsibility with which I am entrusted by the public.

People trust pharmacists to fill the prescriptions that are written by their doctors. If pharmacists are allowed to pick and choose which prescriptions get filled, everyone's health will be at risk. Today they might not fill prescriptions for birth control pills. Tomorrow it could be painkillers for a cancer patient. Next year it could be medicine that prolongs the life of a person with AIDS or some other terminal disease.

I'm going to fight to protect all Americans against this radical assault on our rights.

I'm proud to introduce a bill that will require pharmacists to do one simple thing: their job.

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. 809

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Access to Legal Pharmaceuticals Act''.

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) An individual's right to religious belief and worship is a protected, fundamental right in the United States.

(2) An individual's right to access legal contraception is a protected, fundamental right in the United States.

(3) An individual's right to religious belief and worship cannot impede an individual's access to legal prescriptions, including contraception.

SEC. 3. DUTIES OF PHARMACIES WITH RESPECT TO REFUSAL OF PHARMACISTS TO FILL VALID PRESCRIPTIONS.

(a) IN GENERAL.—Part B of title II of the Public Health Service Act (42 U.S.C. 238 et seq.) is amended by adding at the end the following section:

''SEC. 249. DUTIES OF PHARMACIES WITH RESPECT TO REFUSAL OF PHARMACISTS TO FILL VALID PRESCRIPTIONS.

''(a) IN GENERAL.—A pharmacy that receives prescription drugs or prescription devices in interstate commerce shall maintain compliance with the following conditions:

''(1) If a product is in stock and a pharmacist employed by the pharmacy refuses on the basis of a personal belief to fill a valid prescription for the product, the pharmacy ensures, subject to the consent of the individual presenting the prescription in any case in which the individual has reason to know of the refusal, that the prescription is, without delay, filled by another pharmacist employed by the pharmacy.

''(2) Subject to subsection (b), if a product is not in stock and a pharmacist employed by the pharmacy refuses on the basis of a personal belief or on the basis of pharmacy policy to order or to offer to order the product when presented a valid prescription for the product—

''(A) the pharmacy ensures that the individual presenting the prescription is immediately informed that the product is not in stock but can be ordered by the pharmacy; and

''(B) the pharmacy ensures, subject to the consent of the individual, that the product is, without delay, ordered by another pharmacist employed by the pharmacy.

''(3) The pharmacy does not employ any pharmacist who engages in any conduct with the intent to prevent or deter an individual from filling a valid prescription for a product or from ordering the product (other than the specific conduct described in paragraph (1) or (2)), including—

''(A) the refusal to return a prescription form to the individual after refusing to fill the prescription or order the product, if the individual requests the return of such form;

''(B) the refusal to transfer prescription information to another pharmacy for refill dispensing when such a transfer is lawful, if the individual requests such transfer;

''(C) subjecting the individual to humiliation or otherwise harassing the individual; or

''(D) breaching medical confidentiality with respect to the prescription or threatening to breach such confidentiality.

''(b) PRODUCTS NOT ORDINARILY STOCKED.—Subsection (a)(2) applies only with respect to a pharmacy ordering a particular product for an individual presenting a valid prescription for the product, and does not require the pharmacy to keep such product in stock, except that such subsection has no applicability with respect to a product for a health condition if the pharmacy does not keep in stock any product for such condition.

''(c) ENFORCEMENT.—

''(1) CIVIL PENALTY.—A pharmacy that violates a requirement of subsection (a) is liable to the United States for a civil penalty in an amount not exceeding $5,000 per day of violation, and not to exceed $500,000 for all violations adjudicated in a single proceeding.

''(2) PRIVATE CAUSE OF ACTION.—Any person aggrieved as a result of a violation of a requirement of subsection (a) may, in any court of competent jurisdiction, commence a civil action against the pharmacy involved to obtain appropriate relief, including actual and punitive damages, injunctive relief, and a reasonable attorney's fee and cost.

''(3) LIMITATIONS.—A civil action under paragraph (1) or (2) may not be commenced against a pharmacy after the expiration of the five-year period beginning on the date on which the pharmacy allegedly engaged in the violation involved.

''(d) DEFINITIONS.—For purposes of this section:

''(1) The term 'employ', with respect to the services of a pharmacist, includes entering into a contract for the provision of such services.

''(2) The term 'pharmacist' means a person authorized by a State to practice pharmacy, including the dispensing and selling of prescription drugs.

''(3) The term 'pharmacy' means a person who—

''(A) is authorized by a State to engage in the business of selling prescription drugs at retail; and

''(B) employs one or more pharmacists.

''(4) The term 'prescription device' means a device whose sale at retail is restricted under section 520(e)(1) of the Federal Food, Drug, and Cosmetic Act.

''(5) The term 'prescription drug' means a drug that is subject to section 503(b)(1) of the Federal Food, Drug, and Cosmetic Act.

''(6) The term 'product' means a prescription drug or a prescription device.

''(7) The term 'valid', with respect to a prescription, means—

''(A) in the case of a drug, a prescription within the meaning of section 503(b)(1) of the Federal Food, Drug, and Cosmetic Act that is in compliance with applicable law, including, in the case of a prescription for a drug that is a controlled substance, compliance with part 1306 of title 21, Code of Federal Regulations, or successor regulations; and

''(B) in the case of a device, an authorization of a practitioner within the meaning of section 520(e)(1) of such Act that is in compliance with applicable law.

''(8) The term 'without delay', with respect to a pharmacy filling a prescription for a product or ordering the product, means within the usual and customary timeframe at the pharmacy for filling prescriptions for products for the health condition involved or for ordering such products, respectively.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect upon the expiration of 30 days after the date of the enactment of this Act, without regard to whether the Secretary of Health and Human Services has issued any guidance or final rule regarding such amendment.

By Mr. HATCH (for himself, Mrs. FEINSTEIN, Mr. THUNE, Mr. TALENT, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BROWNBACK, Mr. BURNS, Mr. BURR, Mr. CHAMBLISS, Mr. COBURN, Mr. COLEMAN, Ms. COLLINS, Mr. CORNYN, Mr. CRAIG, Mr. CRAPO, Mr. DEWINE, Mr. DOMENICI, Mr. ENSIGN, Mr. ENZI, Mr. FRIST, Mr. GRAHAM, Mr. GRASSLEY, Mr. INHOFE, Mr. KYL, Mrs. LINCOLN, Mr. LOTT, Mr. LUGAR, Mr. MCCAIN, Mr. ROBERTS, Mr. SANTORUM, Mr. SESSIONS, Mr. SHELBY, Mr. THOMAS, Mr. VITTER, Mr. WARNER, Mr. BOND, Mr. BUNNING, Mr. DEMINT, Mrs. DOLE, Mr. GREGG, Mr. HAGEL, Mrs. HUTCHISON, Mr. JOHNSON, Mr. MARTINEZ, Mr. NELSON of Nebraska, Ms. SNOWE, Mr. SPECTER, and Mr. STEVENS):

S.J. Res. 12. A joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, it is with a sense of honor that my friend and colleague, Senator FEINSTEIN, and I rise to introduce a bipartisan constitutional amendment that would allow Congress to prohibit the physical desecration of the American flag.

I am proud and privileged to be working again with my California colleague on this important proposal. Among our principal cosponsors are our colleagues Senator THUNE and Senator TALENT. It is heartening to us to see some of the Senate's newest Members come to this issue with the same passion that its original supporters still feel.

This amendment is truly bipartisan. Today, we count 51 original cosponsors of this resolution. And, nearly two-thirds of the Members of this body have indicated their support. Those numbers seem to grow with each passing year.

No doubt, some will still argue that this amendment is unnecessary. Fortunately, that refrain is gradually losing its punch.

When this amendment eventually passes the Senate, as I believe that it will, our victory will not be attributed to the passions of the moment. Rather, it will be due to the tireless efforts of citizens committed to convincing their elected representatives that this amendment matters.

I have heard from some Utahans who love our country's flag but are opposed to amending the Constitution. To them I would say, amending the Constitution should never be taken lightly. Yet after serious study of the issue, I have concluded there is no other way to guarantee that our flag is protected, as I will discuss in a few minutes.

And, indeed, guaranteeing the physical integrity of the flag is a cause worth fighting for. The American people seem to understand what the opponents of this amendment fail to grasp. This amendment is a necessary statement that citizens still have some control over the destiny of this Nation and in maintaining the traditions and symbols that have helped to bind us together in all our diversity for over 200 years.

Those who oppose protecting the flag through a constitutional amendment are probably not aware of our constitutional history. Indeed, for most of America's history, our Nation's laws guaranteed the physical integrity of the American flag.

These were laws no one questioned. No one every questioned that the simple act of providing legal protection for the flag, a unique symbol of our ties as a Nation, could somehow violate the Constitution.

We should take a moment and recall what we were taught about the flag as schoolchildren. Our flag's 13 stripes show our origins. We started as 13 separate colonies that first became separate States and then one Nation through the Declaration of Independence and the American Revolution. The 50 stars on the field of blue represent what we have become: a Nation unified. And over the past 230 years, we have become ever more united in our commitment to the extension of liberty and equality.

Among all of our differences, differences frequently reflected in this body, we do remain one Nation undivided and indivisible, and our flag is a simple but profound statement of that union. That is why we open the Senate each day by pledging our allegiance to the flag. It is a reminder of all that we have in common.

Supreme Court Justice John Paul Stevens understood the significance of the flag's status when he wrote:

A country's flag 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 the 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 aspirations.

There is a certain wisdom to Justice Stevens' statement that our constituents immediately grasp. Some polls show that over 80 percent of the American people support an amendment to protect the flag.

Its unique character is represented in the diversity of the groups that have worked over the years to bring this amendment to fruition. Veterans, police, African Americans, Polish Americans, farmers, and so many more diverse groups see in the flag a symbol of our Nation; they understand that it is perfectly consistent with our constitutional traditions for us to protect it.

Unfortunately, in 1989 the Supreme Court intervened and ovrrode every State law barring desecration of the American flag.

None of these States has restricted first amendment political speech in any way.

Their laws did not lead us down some slippery slope that would result in restraints on political opinions.

These States drew reasonable distinctions between political speech and inflammatory and frequently violent acts.

Yet in Texas v. Johnson, the Supreme Court held that a Texas statute, and others like it, that barred desecration of the American flag, violated core first amendment principles. That certainly would have been news to those who wrote the Constitution and our Bill of Rights.

It was news, bad news, to the American people as well.

So in response to this imprudent decision, the Senate acted quickly and passed The Flag Protection Act. It became law on October 28, 1989.

Then, in 1990, the Court struck down even this legislation in United States v. Eichman.

And that is why a constitutional amendment has become necessary.

With due respect to our courts, and to my colleagues who continue to support these decisions, these legal arguments against flag protection just do not hold water.

Detractors of our amendment contend that the first amendment guarantees the right to burn the American flag. It does no such thing.

They contend it would carve out an exception to the first amendment as some say. It would not. Rather, it would reaffirm what was understood not only by those who ratified the Constitution but also by citizens of today: that the first amendment never guaranteed such expressive conduct. Whether one is an originalist or whether one believes in a living Constitution, this argument falls short.

The American people have long distinguished between the first amendment's guarantee of an individual's right to speak his or her mind and the repulsive expression of desecrating the flag. For many years, the people's elected representatives in Congress and 49 State legislatures passed statutes prohibiting physical desecration of the flag, and our political speech thrived. It was just as robust as it is today.

Yet in 1989, the Supreme Court's novel interpretation of the first amendment concluded that the people, their elected legislators, and the courts are no longer capable of making these reasonable distinctions, distinctions that we frequently make in this body such as when we prohibit speeches or demonstrations of any kind, even in the silent display of signs or banners, in the public galleries.

The American people created the Constitution, and they reserved to themselves the right to amend the Constitution when they saw fit. Is it wrong to give the American people the opportunity to review whether the Supreme Court got it right in this case? I think not.

The fact is, a Senator does not take an oath to support and defend the holdings of the Supreme Court. We take an oath to support the Constitution. And, it is entirely appropriate that when we think the Court gets it wrong, we correct it through proper constitutional devices, devices set out in the Constitution itself . . . Though it has been forgotten over the years, this is hardly a radical idea. It was one supported by the founders of both the Republican and Democratic parties, Thomas Jefferson and Abraham Lincoln.

As some in this body have noted, our courts are now frequently attempting to identify a national consensus to justify contemporary interpretations of our constitutional guarantees. The progress of this amendment to protect the flag demonstrates to me at least just how such a consensus is supposed to develop. Through argument, through give and take, through debate—over time the American people, as reflected in the actions of their representatives, have become more sure than ever that they should have the opportunity to protect their flag through moderate and reasonable legislation.

After September 11, citizens proudly flew the flag, defying the terrorist challenge to our core values of liberty and equality, and confirming its unique status as a symbol of our nation's strength and purpose. In the struggle that has followed, our flag stands as a reminder of the many personal sacrifices made to protect and strengthen our nation.

And so, to protect this symbol, I am today introducing this amendment.

I thank my colleagues, Senators FEINSTEIN, THUNE, and TALENT for their work on this. I urge those who are not cosponsors of this amendment to keep an open mind as we debate this resolution.

It is my hope that the Judiciary committee will move the resolution to the floor.

And, in turn, I ask that our leadership ensure this resolution gets a vote on the floor.

Mr. THUNE. Mr. President, today, it is my distinct honor and privilege to rise and speak on behalf of Senator HATCH, Senator FEINSTEIN, Senator TALENT, myself, and 47 other senators, as we introduce bipartisan legislation we believe to be long overdue. It is not reform legislation. It does not authorize new government programs, create new sources of tax revenue, or provide incentives to stimulate our economy. It is none of those things, but it is a matter of great importance. The events of 9/11 have reminded us all of that. It is, instead, legislation that speaks to the core of our beliefs and hopes as a Nation, and as a people. It is about a national treasure and a symbol of our country that the vast majority of Americans—and the majority of this great body, I might add—believe is worth special status and worthy of protection. It is about the American flag.

Our American flag is more than mere cloth and ink. It is a symbol of the liberty and freedom that we enjoy today thanks to the immeasurable sacrifices of generations of Americans who came before us.

It represents the fiber and strength of our values and it has been sanctified by the blood of those who died defending it.

I rise today to call upon all members of this body to support a constitutional amendment that would give Congress the power to prohibit the physical desecration of the American flag. It would simply authorize, but not require, Congress to pass a law protecting the American flag.

This amendment does not affect anyone's right to express their political beliefs.

It would only allow Congress to prevent our flag from being used as a prop, to be desecrated in some ways simply not appropriate to even mention in these halls.

This resolution and similar legislation have been the subject of debate before this body before. There is, in fact, a quite lengthy legislative history regarding efforts to protect the American flag from desecration. In 1989, the Supreme Court declared essentially that burning the American flag is ''free speech.'' That is a decision the American people should make, particularly when this country finds itself fighting for democracy and expending American lives for that cause, on battlefields overseas.

South Dakota veterans and members of the armed forces from my State know exactly what I'm talking about, as I'm sure they do from every state represented in the Senate. In recent months, units of the 147th field artillery and 153rd engineer battalions of the South Dakota National Guard returned home after spending a difficult year in Iraq. Likewise, the 452nd ordinance company of the United States Army Reserve is preparing to depart for Iraq in September.

My father, like many other veterans of World War II, understands the importance of taking this step. Veterans from across South Dakota have asked me to step up and defend the flag of this great Nation and today I am answering that call.

Today, members of both political parties will introduce a proposed constitutional amendment that would give back to the American people the power to prevent the desecration of the American flag. We know the gravity of this legislation. There is nothing complex about this amendment, nor are there any hidden consequences. This amendment provides Congress with the power to outlaw desecration of the American flag, a right that is widely recognized by Madison, Jefferson, and Supreme Court Justice Hugo Black, one of the foremost advocates of first amendment freedoms.

Most states officially advocate Congress passing legislation to protect the flag. Frankly, I do not see this as a first amendment issue.

It is an attempt to restore the traditional protections to the symbol cherished so dearly by our Government and the people of the United States. Some acts are not accepted as ''free speech'' even in societies like ours where we consider free speech a cherished right. For example, an attempt to burn down this Capitol building as a political statement would never be viewed as someone's right of free speech. Our laws would not tolerate the causing of harm to other's property or life as an act of ''free speech.'' This flag happens to be the property of the American people, in my opinion, and this question should be put before the States and their people to decide how and if to protect it. I think the answer will come back as a resounding ''yes''.

There is little doubt that the debate over state ratification will trigger a tremendous discussion over our values, beliefs and whether we will ultimately bestow a lasting honor on our traditions. Importantly, it will be an indication of how we recognize our servicemen and women who are sacrificing—right now—in Iraq and Afghanistan, to protect those traditions and values for us. Will we honor them, and all the veterans who served and died in wars for this country and our flag over the last 200 years? That's not a question which a court should hold the final answer.

I believe the time has finally come. I believe our country wants this debate. The majority of this Senate, I believe, wants this amendment. We begin it here, and we begin it now. Let the debate begin.

Mr. BURNS. Mr. President, I come to the floor today to voice my support for the flag amendment.

The flag of the United States of America is a symbol of freedom. The flag of the United States of America

has been sanctified by the blood of thousands of U.S. soldiers who have fought across the world, and it must be protected from desecration. This proposed constitutional amendment would overturn the 1989 U.S. Supreme Court's 5–4 ruling which held that laws banning desecration of the U.S. flag were unconstitutional infringements on free speech and therefore a violation of the first amendment.

I am proud of the first amendment right to free speech and will always ensure all Americans maintain that right. I am also proud of the American flag and the values behind it. The American flag flies over this great country as a symbol of liberty and patriotism. Desecration of the flag would be destruction of the core principles on which this great Nation was founded. I will continue to be an advocate on behalf of the American flag and the values the flag represents.

I encourage my colleagues to support this measure and join me in ensuring the everlasting integrity of the American flag.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 107—COMMENDING ANNICE M. WAGNER, CHIEF JUDGE OF THE DISTRICT OF COLUMBIA COURT OF APPEALS, FOR HER PUBLIC SERVICE

Ms. COLLINS (for herself, Mr. DURBIN, Mr. LIEBERMAN, Mr. STEVENS, Mr. VOINOVICH, Mr. AKAKA, Mr. COLEMAN, Mr. LEVIN, Mr. COBURN, Mr. DEWINE, Ms. LANDRIEU, and Mr. LAUTENBERG) submitted the following resolution; which was referred to the Committee on Homeland Security and Governmental Affairs:

S. RES. 107

Whereas Annice M. Wagner, Chief Judge of the District of Columbia Court of Appeals, entered Federal Government service in 1973 as the first woman to be appointed General Counsel of the National Capital Housing Authority, then a Federal agency;

Whereas, from 1975 to 1977, the Honorable Annice M. Wagner served as People's Counsel for the District of Columbia, an office created by Congress to represent the interests of utility consumers before the District of Columbia Public Service Commission and the District of Columbia Court of Appeals;

Whereas, in 1977, the Honorable Annice M. Wagner was appointed by President Carter and confirmed by the Senate to serve as an Associate Judge of the Superior Court for the District of Columbia;

Whereas, while serving as an Associate Judge of the Superior Court, the Honorable Annice M. Wagner served in the civil, criminal, family, probate, and tax divisions and served for 2 years as presiding judge of the probate and tax divisions;

Whereas, while serving as an Associate Judge of the Superior Court, Annice M. Wagner served on various commissions and committees to improve the District of Columbia judicial system, including serving as chairperson of the Committee on Selection and Tenure of Hearing Commissioners, and as a member of the Superior Court Rules Committee and the Sentencing Guidelines Commission;

Whereas, as an Associate Judge of the Superior Court, Annice M. Wagner served as chairperson of the Court's Advisory Committee on Probate and Fiduciary Rules and was largely responsible for the implementation of new rules intended to streamline and clarify procedures regarding missing, protected, and incapacitated individuals;

Whereas, as an Associate Judge of the Superior Court, the Honorable Annice M. Wagner served as chairperson of the Task Force on Gender Bias in the Courts, which conducted a comprehensive study of bias in the courts;

Whereas, under Annice M. Wagner's leadership, the District of Columbia courts established the Standing Committee on Fairness and Access to the Courts to ensure racial, gender, and ethnic fairness;

Whereas Annice M. Wagner was appointed by President George H.W. Bush and confirmed by the Senate in 1990 to be an Associate Judge of the District of Columbia Court of Appeals;

Whereas Annice M. Wagner was appointed in 1994 to serve as Chief Judge of the District Court of Appeals;

Whereas, while Chief Judge of the District of Columbia Court of Appeals, Annice M. Wagner served as Chair of the Joint Committee on Judicial Administration in the District of Columbia;

Whereas, under Annice M. Wagner's leadership, the District of Columbia courts initiated the renovation of the Old District of Columbia Courthouse (Old City Hall) in Judiciary Square, a National Historic Landmark, for future use by the District of Columbia Court of Appeals;

Whereas, under Annice M. Wagner's leadership, the District of Columbia courts initiated the master planning process for the renovation and use of unused or underutilized court properties, which will lead to the revitalization of the Judiciary Square area in the Nation's Capital;

Whereas, under Annice M. Wagner's leadership, the Court of Appeals, along with the District of Columbia Bar, the District of Columbia Bar Foundation, and the District of Columbia Consortium of Legal Service Providers, established the District of Columbia Access to Justice Commission, a commission that will propose ways to make lawyers and the legal system more available for poor individuals in the District of Columbia;

Whereas Annice M. Wagner served as President of the Conference of Chief Justices, an organization of Chief Justices and Chief Judges of the highest court of each of the 50 States, the District of Columbia, and the territories;

Whereas Annice M. Wagner served as Chairperson of the Board of Directors of the National Center for State Courts;

Whereas the Honorable Annice M. Wagner commands wide respect within the legal profession nationally, having been selected to serve as one of 11 members of the American Bar Association's Section on Dispute Resolution's Drafting Committee on the Uniform Mediation Act, which collaborated with the National Conference of Commissioners on Uniform State Laws in promulgating the Uniform Mediation Act, which, in 2001, was approved and recommended for enactment in all of the States, to foster prompt, economical, and amicable resolution of disputes through mediation processes which promote public confidence and uniformity across state lines;

Whereas, since 1979, Annice M. Wagner has been involved with the United Planning Organization, which was established in 1962 to conduct initiatives designed to provide human services in the District of Columbia and she has served as Interim President of the Organization's Board of Trustees;

Whereas, since 1986, Annice M. Wagner has participated as a member of a teaching team for the Trial Advocacy Workshop at Harvard Law School;

Whereas Annice M. Wagner, Chief Judge of the District of Columbia Court of Appeals, was born in the District of Columbia and attended District of Columbia Public Schools and received her Bachelor's and law degrees from Wayne State University in Detroit, Michigan; and

Whereas Annice M. Wagner's dedication to public service and the citizens of the District of Columbia has contributed to the improvement of the judicial system, increased equal access to justice, and advanced public confidence in the court system: Now, therefore, be it

Resolved, That the Senate commends the Honorable Annice M. Wagner for her commitment and dedication to public service, the judicial system, equal access to justice, and the community.

Ms. COLLINS. Mr. President, today I am submitting a Senate resolution to commend Chief Judge Annice M. Wagner of the District of Columbia Court of Appeals for more than 32 years of public service. As the Chairman of the Committee on Homeland Security and Governmental Affairs, which has oversight jurisdiction of the District of Columbia courts, I believe that it is important to recognize the contributions of Chief Judge Wagner who will be retiring this year. As chief judge of the D.C. Court of Appeals, she has worked closely with the Committee on Homeland Security and Governmental Affairs on various issues related to the D.C. courts and the justice system in the District.

Chief Judge Wagner entered Federal Government service in 1973 as the first woman to be appointed General Counsel of the National Capital Housing Authority, then a Federal agency. Subsequently, she served as People's Counsel for the District of Columbia, an office created by Congress to represent the interests of utility consumers before the District of Columbia Public Service Commission and the District of Columbia Court of Appeals.

Chief Judge Wagner was twice confirmed by the Senate. First, in 1977, when she was nominated by President Jimmy Carter to serve as an Associate Judge of the Superior Court for the District of Columbia and again when she was nominated by President George H. W. Bush, in 1990, to serve as an Associate Judge of the D.C. Court of Appeals. She was later appointed, in 1994, to serve as chief judge. During her 28 years of service in the D.C. courts, she served in every division of the D.C. Superior Court, and served for two years as presiding judge of the Probate and Tax divisions. She also served on various commissions and committees, including serving as chairperson of the Committee on Selection and Tenure of Hearing Commissioners, Chair of the Joint Committee on Judicial Administration in the District of Columbia, and as a member of the Superior Court Rules Committee and the Sentencing Guidelines Commission.

Chief Judge Wagner has also demonstrated a commitment to improving access to justice. To this end, she served as chairperson of the Court's Advisory Committee on Probate and Fiduciary Rules and was largely responsible for the implementation of new rules intended to streamline and clarify procedures regarding the affairs of missing, protected, and incapacitated individuals. She also served as chairperson of the Task Force on Gender Bias in the Courts, which conducted a comprehensive study of bias in the courts and, under her leadership, the District of Columbia courts established the Standing Committee on Fairness and Access to the Courts to ensure racial, gender, and ethnic fairness.

More recently, under her leadership, the Court of Appeals, along with the District of Columbia Bar, the District of Columbia Bar Foundation, and the District of Columbia Consortium of Legal Service Providers, established the D.C. Access to Justice Commission, a commission that will propose ways to make lawyers and access to justice more available for poor individuals in the District of Columbia.

Chief Judge Wagner's work at the D.C. courts also extends beyond legal issues. As the space needs of the District of Columbia courts continued to grow beyond their current building, Chief Judge Wagner led the effort to examine solutions to resolve the courts continued space problems. Her efforts led the D.C. courts to plan and initiate the renovation of the Old Courthouse/City Hall in Judiciary Square, a National Historic Landmark, for the future use by the D.C. Court of Appeals. In addition, as Congress enacted new legislative mandates on the courts which further increased their space needs, under her leadership, the District of Columbia courts initiated the master planning process for the renovation and use of all court properties in Judiciary Square. This effort will result not only in the improvement of court operations, but is expected to lead to the revitalization of the Judiciary Square area in the Nation's Capital.

Chief Judge Wagner's service also extends beyond the boundaries of the District. She has served as President of the Conference of Chief Justices, an organization of chief justices and chief judges of the highest court of each of the fifty states, the District of Columbia, and the territories, as chairperson of the Board of Directors of the National Center for State Courts, and as one of eleven members of the American Bar Association's Section on Dispute Resolution's Drafting Committee on the Uniform Mediation Act which collaborated with the National Conference of Commissioners on Uniform State Laws in promulgating the Uniform Mediation Act, which, in 2001, was approved and recommended for enactment in all the States, to foster prompt, economical, and amicable resolution of disputes through mediation processes which promote public confidence and uniformity across state lines.

Chief Judge Wagner's dedication and service to the District of Columbia and to the judicial system are highly commendable and warrant our recognition.

I urge my colleagues to support this resolution.

SENATE RESOLUTION 108—EXPRESSING THE SENSE OF THE SENATE THAT PUBLIC SERVANTS SHOULD BE COMMENDED FOR THEIR DEDICATION AND CONTINUED SERVICE TO THE NATION DURING PUBLIC SERVICE RECOGNITION WEEK, MAY 2 THROUGH 8, 2005

Mr. AKAKA (for himself, Mr. VOINOVICH, Ms. COLLINS, Mr. LIEBERMAN, Mr. COLEMAN, Mr. LEVIN, Mr. COBURN, and Mr. CARPER) submitted the following resolution; which was referred to the Committee on Homeland Security and Governmental Affairs:

S. RES. 108

Whereas Public Service Recognition Week provides an opportunity to honor and celebrate the commitment of men and women who meet the needs of the Nation through work at all levels of government;

Whereas over 18,000,000 individuals work in government service in every city, county, and State across America and in hundreds of cities abroad;

Whereas Federal, State, and local officials perform essential services the Nation relies upon every day;

Whereas the United States of America is a great and prosperous nation, and public service employees contribute significantly to that greatness and prosperity;

Whereas the Nation benefits daily from the knowledge and skills of these highly trained individuals;

Whereas public servants—

(1) help the Nation recover from natural disasters and terrorist attacks;

(2) provide vital strategic support functions to our military and serve in the National Guard and Reserves;

(3) fight crime and fire;

(4) deliver the United States mail;

(5) deliver social security and medicare benefits;

(6) fight disease and promote better health;

(7) protect the environment and the Nation's parks;

(8) defend and secure critical infrastructure;

(9) teach and work in our schools and libraries;

(10) improve and secure our transportation systems;

(11) keep the Nation's economy stable; and

(12) defend our freedom and advance United States interests around the world;

Whereas public servants at every level of government are hard-working men and women, committed to doing their jobs regardless of the circumstances;

Whereas members of the uniformed services and civilian employees at all levels of government make significant contributions to the general welfare of the United States, and are on the front lines in the fight against terrorism and in maintaining homeland security;

Whereas public servants work in a professional manner to build relationships with other countries and cultures in order to better represent America's interests and promote American ideals;

Whereas Federal, State, and local government employees have risen to the occasion and demonstrated professionalism, dedication, and courage while fighting the war against terrorism;

Whereas public servants alert Congress and the public to government waste, fraud, abuse, and dangers to public health;

Whereas the men and women serving in the Armed Forces of the United States, as well as those skilled trade and craft Federal employees who provide support to their efforts, contribute greatly to the security of the Nation and the world;

Whereas government workers have much to offer, as demonstrated by their expertise and innovative ideas, and serve as examples by passing on institutional knowledge to train the next generation of public servants;

Whereas May 2 through 8, 2005, has been designated Public Service Recognition Week to honor America's Federal, State, and local government employees;

Whereas the theme for Public Service Recognition Week 2005 is Celebrating Government Workers Nationwide to highlight the important work civil servants perform throughout the Nation; and

Whereas Public Service Recognition Week is celebrating its 21st anniversary through job fairs, student activities, and agency exhibits: Now, therefore, be it

Resolved, That the Senate—

(1) commends public servants for their outstanding contributions to this great Nation;

(2) salutes their unyielding dedication and spirit for public service;

(3) honors those government employees who have given their lives in service to their country;

(4) calls upon a new generation of workers to consider a career in public service as an honorable profession; and

(5) encourages efforts to promote public service careers at all levels of government.

Mr. AKAKA. Mr. President, today I rise to pay tribute to America's public servants. Whether it is at the Federal, State, or local level, the men and women who choose public service provide essential services that we rely on every day. As the ranking member of the Senate Homeland Security and Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, I am pleased to submit a resolution honoring these employees and celebrating Public Service Recognition Week. I am delighted to be joined by the leadership of the Senate Homeland Security and Governmental Affairs Committee, Senators VOINOVICH, COLLINS, LIEBERMAN, COLEMAN, LEVIN, COBURN, and CARPER.

The 21st anniversary of Public Service Recognition Week, which takes place the week of May 2, 2005, showcases the talented individuals who serve their country as Federal, State and local government employees, both civilian and military. From Hawaii to Maine, throughout the Nation, and around the world, public employees use the week to educate their fellow citizens on Government services make life better for all of us and the exciting challenges of a career in public service.

Public servants are teachers, members of the Armed Forces, civilian defense workers, postal employees, food

inspectors, law enforcement officers, firemen, social workers, crossing guards, and road engineers. They deliver essential Government services; defend our freedom; go above and beyond the call of duty to notify the public of Government waste, fraud, abuse; and respond with professionalism and honor during emergencies. They deserve our respect and gratitude for their dedication and service to this country.

As the conflict in Iraq continues, as well as the global war on terrorism, I would like to take this opportunity to thank the brave men and women who have given their lives for their country. Over 1,500 Americans have lost their lives in defense of freedom since the beginning of Operation Iraqi Freedom. Members of the Federal civilian workforce work side-by-side with members of the Armed Services and are crucial to our Nation's defense, security, and general welfare. Like those who came before them and those who are yet to come, our military and civilian support staff show courage in the face of adversity and deserve our admiration and respect.

Public Service Recognition Week provides an opportunity to honor and celebrate the commitment of individuals who serve the needs of the Nation as Government and municipal employees. It is also a time to call on a new generation of Americans to consider public service. Through job fairs, special exhibits, and agency sponsored education programs, Public Service Recognition Week provides an opportunity for individuals to gain a deeper understanding of the exciting and challenging work in the Federal Government.

I encourage my colleagues to recognize Federal employees in their States, as well as State and local government employees, and to let them know how much their work is appreciated. I invite my colleagues to join in the annual celebration.

SENATE RESOLUTION 109—COMMENDING THE UNIVERSITY OF OKLAHOMA SOONERS MEN'S GYMNASTICS TEAM FOR WINNING THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I MEN'S GYMNASTICS CHAMPIONSHIP

Mr. INHOFE (for himself and Mr. COBURN) submitted the following resolution; which was considered and agreed to:

S. RES. 109

Whereas on April 8, 2005, the University of Oklahoma Sooners won their sixth National Collegiate Athletic Association (NCAA) Division I Men's Gymnastics Championship, at West Point, New York;

Whereas the 2005 NCAA Championship is the Sooners' third championship in the past 4 years;

Whereas the championship title crowned a remarkable season for the Sooners in which the team achieved an impressive record of 21 wins and only 2 losses;

Whereas the Sooners clinched a spectacular, nail-biting victory over the Ohio State Buckeyes, which was made possible by a heroic final performance on the vault by freshman Jonathan Horton;

Whereas the Sooners' winning score of 225.675 set a school record and dramatically surpassed second-place Ohio State's score of 225.450;

Whereas 6 members of the University of Oklahoma men's gymnastics team, including Taqiy Abdullah-Simmons, Josh Gore, David Henderson, Jamie Henderson, Jonathan Horton, and Jacob Messina, also garnered a school-record 13 All-America honors in the individual event finals;

Whereas senior David Henderson's 2005 NCAA title on the still rings gave the University of Oklahoma its 18th all-time individual national champion and capped off an exceptional 4 years;

Whereas Head Coach Mark Williams was named the 2005 NCAA Coach of the Year, making it the third time in his distinguished career that Head Coach Williams has received that honor;

Whereas the tremendous success of the 2005 Sooners adds to the outstanding legacy of men's gymnastics at the University of Oklahoma and is a reflection of the heart and dedication of the entire school, from the president to the athletic directors, coaches, athletes, managers, and staff members;

Whereas the teamwork, grit, and sportsmanship demonstrated by the University of Oklahoma Sooners men's gymnastics team is a proud tribute to the university and the communities from which the team members hail: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the University of Oklahoma Sooners for their sixth National Collegiate Athletic Association Division I Men's Gymnastics Championship;

(2) recognizes all who have contributed their hard work and support to making the 2005 season a historic success; and

(3) directs the Secretary of the Senate to transmit a copy of this resolution to University of Oklahoma President David L. Boren and Head Coach Mark Williams for appropriate display.

SENATE RESOLUTION 110—COMMENDING OKLAHOMA STATE UNIVERSITY'S WRESTLING TEAM FOR WINNING THE 2005 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I WRESTLING CHAMPIONSHIP

Mr. INHOFE (for himself and Mr. COBURN) submitted the following resolution; which was considered and agreed to:

S. RES. 110

Whereas on March 19, 2005, the Oklahoma State University Cowboys claimed their 33rd National Collegiate Athletic Association Wrestling Championship in St. Louis, Missouri;

Whereas the 33 wrestling championships won by the Cowboys is more than have been won by any other school in the history of National Collegiate Athletic Association Division I wrestling;

Whereas the Cowboys now have won 3 consecutive wrestling championships, a feat not accomplished since they won the national wrestling championship in 1954, 1955, and 1956;

Whereas the Cowboys' 2005 championship topped off an impressive season in which they were undefeated in the regular season and also had a perfect record in the finals;

Whereas the Cowboys outscored second place Michigan, 153 to 83, achieving a margin of victory that was the second-highest in National Collegiate Athletic Association wrestling history;

Whereas the Cowboys crowned a school-record 5 individual national champions, tying a national tournament record;

Whereas the Cowboys' outstanding 2005 season contributed to an already rich and proud tradition of wrestling excellence at Oklahoma State University;

Whereas the amazing accomplishments of the past year reflect the dedication, commitment, and tireless effort of the entire school, from the president to the athletic directors, coaches, athletes, managers, and staff members; and

Whereas the student athletes of the Oklahoma State University wrestling team, through their exceptional athletic achievements, have not only brought credit to themselves but to their fellow students, their university, and their community: Now, therefore be it

Resolved, That the Senate—

(1) commends the Oklahoma State Cowboys for their third straight National Collegiate Athletic Association Division I Wrestling Championship;

(2) recognizes the players, coaches, staff, and all who have made the historic successes of the 2005 season possible; and

(3) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to Oklahoma State University President Dr. David J. Schmidly and Coach John Smith for appropriate display.

SENATE CONCURRENT RESOLUTION 27—HONORING MILITARY CHILDREN DURING ''NATIONAL MONTH OF THE MILITARY CHILD''

Mr. KENNEDY (for himself, Mr. FRIST, Mr. LEVIN, Mr. KERRY, Ms. MIKULSKI, Mr. BOND, Mr. BAYH, Mr. AKAKA, Mr. REID, Mr. JOHNSON, Mrs. MURRAY, and Mrs. DOLE) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 27

Whereas more than a million Americans are demonstrating their courage and commitment to freedom by serving in the Armed Forces of the United States;

Whereas nearly 40 percent of the members of the Armed Forces, when deployed away from their permanent duty stations, have left families with children behind;

Whereas no one feels the effect of those deployments more than the children of deployed service members;

Whereas as of March 31, 2005, approximately 1,000 of these children have lost a parent serving in the Armed Forces during the preceding 5 years;

Whereas the daily struggles and personal sacrifices of children of members of the Armed Forces too often go unnoticed;

Whereas the children of members of the Armed Forces are a source of pride and honor to all Americans and it is fitting that the Nation recognize their contributions and celebrate their spirit;

Whereas the ''National Month of the Military Child'', observed in April each year, recognizes military children for their sacrifices and contributes to demonstrating the Nation's unconditional support to members of the Armed Forces;

Whereas in addition to Department of Defense programs to support military families and military children, a variety of programs

and campaigns have been established in the private sector to honor, support, and thank military children by fostering awareness and appreciation for the sacrifices and the challenges they face;

Whereas a month-long salute to military children will encourage support for those organizations and campaigns established to provide direct support for military children and families

Resolved by the Senate (the House of Representatives concurring), That the Senate—

(1) joins the Secretary of Defense in honoring the children of members of the Armed Forces and recognizes that they too share in the burden of protecting the Nation;

(2) urges Americans to join with the military community in observing the ''National Month of the Military Child'' with appropriate ceremonies and activities that honor, support, and thank military children; and

(3) recognizes with great appreciation the contributions made by private-sector organizations that provide resources and assistance to military families and the communities that support them.

AMENDMENTS SUBMITTED AND PROPOSED

SA 412. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table.

SA 413. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 414. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 415. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 416. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 417. Mr. GRASSLEY (for himself, Mr. BAUCUS, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 418. Mr. CHAMBLISS (for himself, Mr. ISAKSON, Mr. PRYOR, Mr. INHOFE, Mr. LUGAR, Mrs. DOLE, Mrs. LINCOLN, Mr. BAYH, Mr. REED, Mr. CHAFEE, Mr. BYRD, Mr. BURR, Mr. LOTT, and Mr. MARTINEZ) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 419. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 420. Mr. BURNS submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 421. Mr. KENNEDY (for himself and Mr. KOHL) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 422. Mr. COCHRAN (for Mr. LEAHY (for himself and Mr. OBAMA)) proposed an amendment to the bill H.R. 1268, supra.

SA 423. Mr. COCHRAN (for Mr. LEAHY) proposed an amendment to the bill H.R. 1268, supra.

SA 424. Mr. COCHRAN proposed an amendment to the bill H.R. 1268, supra.

SA 425. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 426. Mr. SANTORUM (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 427. Mr. DURBIN (for himself, Mr. LEVIN, Mr. KENNEDY, Mr. BYRD, Mr. LEAHY, Mr. FEINGOLD, Mr. LAUTENBERG, and Mr. BINGAMAN) proposed an amendment to the bill H.R. 1268, supra.

SA 428. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 429. Mr. ISAKSON submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 430. Mr. BYRD (for himself, Mrs. CLINTON, Mr. LAUTENBERG, Mr. KERRY, Mr. WYDEN, Mr. DORGAN, Mr. HARKIN, and Mr. KENNEDY) proposed an amendment to the bill H.R. 1268, supra.

SA 431. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 432. Mr. CHAMBLISS (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 433. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 434. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 435. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 375 submitted by Mr. CRAIG (for himself and Mr. KENNEDY) and intended to be proposed to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 436. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 437. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 438. Mr. COCHRAN (for Mr. SPECTER) proposed an amendment to the bill H.R. 1268, supra.

SA 439. Mr. CRAIG (for himself and Mr. AKAKA) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 440. Mr. BIDEN (for himself, Mr. BINGAMAN, and Mr. CARPER) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 441. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 442. Mr. REED (for himself, Ms. SNOWE, Mr. KENNEDY, Mr. CHAFEE, and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 443. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 444. Mrs. BOXER (for herself and Mr. BINGAMAN) submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 445. Mr. REID proposed an amendment to the bill H.R. 1268, supra.

SA 446. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 412. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, and insert the following:

SENSE OF CONGRESS ON A STUDY OF THE ROLE OF NATURAL BARRIERS

(a) Congress makes the following findings:

(1) The tsunami that struck in the Indian Ocean on December 26, 2004 not only killed approximately 250,000 people, it also obliterated the natural coastal barriers in the region affected by the tsunami.

(2) More than 3,000 miles of coastline were affected by the tsunami, a distance that is equal to the distance of the United States shoreline from Galveston, Texas to Bangor, Maine.

(3) The United Nations Environmental Program estimates that the damage to the environment could total $675,000,000 in loss of natural habitats and important ecosystem function.

(4) Without the barriers that act as nature's own line of defense against flooding, storm surge, hurricanes, and even tsunamis, human lives are at greater risk.

(5) Restoring the reefs, barrier islands, and shorelines of these areas will help in long-term disaster risk reduction.

(6) While the Atlantic and Gulf of Mexico coasts are at some risk for a tsunami, the major threat each year comes from hurricanes. In 2004, multiple hurricanes in rapid succession decimated the people and natural barriers of Florida, the southeast Atlantic seaboard, and most of the Gulf south. These annual extremes of mother nature make critical the need to reinvest in the natural barriers of the United States.

(b) It is the sense of Congress that the head of the United States Geological Survey should study the role of natural barriers in the coastal areas of the United States to assess the vulnerabilities of such areas to extreme conditions, the possible effects such conditions could have on coastal populations, and the means, mechanisms, and feasibility of restoring already deteriorated natural barriers along the coast lines of the United States.

SA 413. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30,

2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, and insert the following:

SENSE OF CONGRESS ON A COMPREHENSIVE EVACUATION PLAN

(a) Congress makes the following findings:

(1) In the United States, 122,000,000 people, approximately 53 percent of the population, live in coastal countries or parishes.

(2) In the annual occurrence of massive and deadly hurricanes that affect coastal areas in the United States, the lack of adequate highways, planning, and communication sends many people scrambling into gridlocked traffic jams where they are vulnerable to injury and unable to evacuate to safe areas in a reasonable amount of time.

(3) Federal interstate and other highways may be used in an efficient and safe manner to quickly evacuate large populations to safer areas in the event of natural disasters that occur and affect low-lying coastal communities.

(b) It is the sense of Congress that the head of the Federal Highway Administration should develop a comprehensive plan for evacuation of the coastal areas of the United States during any of the variety of natural disasters that affect coastal populations. The plan should include plans for evacuation in the event of a hurricane, flash flooding, tsunami, or other natural or man-made disaster that require mass evacuation.

SA 414. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 194, line 13, after ''tsunami:'' insert ''*Provided further*, That of the funds appropriated under this heading, not less than $25,000,000 should be made available to support initiatives that focus on the immediate and long-term needs of children, including the registration of unaccompanied children, the reunification of children with their immediate or extended families, the facilitation and promotion of domestic and international adoption for orphaned children, the protection of women and children from violence and exploitation, and activities designed to prevent the capture of children by armed forces and promote the integration of war affected youth:''.

SA 415. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 174, line 2, after ''programs:'' insert ''*Provided further*, That of the funds appropriated under this heading, not less than $5,000,000 should be made available to support initiatives that focus on the immediate and long-term needs of children, including the registration of unaccompanied children, the reunification of children with their immediate or extended families, the promotion of domestic and international adoption for orphaned children, the protection of women and children from violence and exploitation, and activities designed to prevent the capture of children by armed forces and the reintegration of war affected youth:''.

SA 416. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

TRAVEL AND TRANSPORTATION FOR FAMILY OF MEMBERS OF THE ARMED FORCES HOSPITALIZED IN UNITED STATES IN CONNECTION WITH NON-SERIOUS ILLNESSES OR INJURIES INCURRED OR AGGRAVATED IN A CONTINGENCY OPERATION

SEC. 1122. (a) AUTHORITY.—Subsection (a) of section 411h of title 37, United States Code, is amended—

(1) in paragraph (2)—

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

(B) by striking subparagraphs (B) and (C) and inserting the following new subparagraph:

''(B) either—

''(i) is seriously ill, seriously injured, or in a situation of imminent death (whether or not electrical brain activity still exists or brain death is declared), and is hospitalized in a medical facility in or outside the United States; or

''(ii) is not described in clause (i), but has an illness or injury incurred or aggravated in a contingency operation and is hospitalized in a medical facility in the United States for treatment of that condition.''; and

(2) by adding at the end the following new paragraph:

''(3) Not more than one roundtrip may be provided to a family member under paragraph (1) on the basis of clause (ii) of paragraph (2)(B).''.

(b) CONFORMING AMENDMENTS.—

(1) HEADING FOR AMENDED SECTION.—The heading for section 411h of such title is amended to read as follows:

''§ 411h. Travel and transportation allowances: transportation of family members incident to illness or injury of members''.

(2) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 7 of such title is amended to read as follows:

''411h. Travel and transportation allowances: transportation of family members incident to illness or injury of members.''.

(c) FUNDING.—Funds for the provision of transportation in fiscal year 2005 under section 411h of title 37, United States Code, by reason of the amendments made by this section shall be derived as follows:

(1) In the case of transportation provided by the Department of the Army, from amounts appropriated for fiscal year 2005 by this Act and the Department of Defense Appropriations Act, 2005 (Public Law 108–287) for the Military Personnel, Army account.

(2) In the case of transportation provided by the Department of the Navy, from amounts appropriated for fiscal year 2005 by the Acts referred to in paragraph (1) for the Operation and Maintenance, Navy account.

(3) In the case of transportation provided by the Department of the Air Force, from amounts appropriated for fiscal year 2005 by the Acts referred to in paragraph (1) for the Operation and Maintenance, Air Force account.

(d) REPORT ON TRANSPORTATION IN EXCESS OF CERTAIN LIMIT.—If in any fiscal year the amount of transportation provided in such fiscal year under section 411h of title 37, United States Code, by reason of the amendments made by this section exceeds $20,000,000, the Secretary of Defense shall submit to the congressional defense committees a report on that fact, including the total amount of transportation provided in such fiscal year under such section 411h by reason of the amendments made by this section.

SA 417. Mr. GRASSLEY (for himself, Mr. BAUCUS, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 200, between lines 13 and 14, insert the following:

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

For an additional amount for necessary expenses of the Office of the United States Trade Representative, $2,000,000, to remain available until expended: *Provided*, That the entire amount is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

SA 418. Mr. CHAMBLISS (for himself, Mr. ISAKSON, Mr. PRYOR, Mr. INHOFE, Mr. LUGAR, Mrs. DOLE, Mrs. LINCOLN, Mr. BAYH, Mr. REED, Mr. CHAFEE, Mr.

BYRD, Mr. BURR, Mr. LOTT, and Mr. MARTINEZ) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

PROHIBITION ON TERMINATION OF EXISTING JOINT-SERVICE MULTIYEAR PROCUREMENT CONTRACT FOR C/KC–130J AIRCRAFT

SEC. 1122. No funds appropriated or otherwise made available by this Act, or any other Act, may be obligated or expended to terminate the joint service multiyear procurement contract for C/KC–130J aircraft that is in effect on the date of the enactment of this Act.

SA 419. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, and insert the following:

SENSE OF CONGRESS ON ORPHANS

(a) Congress makes the following findings:

(1) It is estimated that, by the end of 2003, there were 143,000,000 orphans under the age of 18 years in 93 countries in sub-Sahara Africa, Asia, Latin American, and the Caribbean.

(2) Millions of children have been orphaned or made vulnerable by HIV/AIDS. The region most affected by HIV/AIDS is sub-Sahara Africa, where an estimated 12,300,000 millions orphans of HIV/AIDS live.

(3) To survive and thrive, children need to be raised in a family that is prepared to provide for their physical and emotional well being.

(4) The institutionalization of a child, especially during the first few years of life, has been proven to inhibit the physical and emotional development of the child.

(5) Large numbers of orphans present dire challenges to the economic and social structures of affected countries, and such countries that ignore such challenges at their peril.

(b) It is the sense of Congress that—

(1) the United States Agency for International Development should develop and fund a comprehensive, long-term agenda for reducing the number of orphans;

(2) the strategy under paragraph (1) should include policies and programs designed to prevent abandonment, reduce the transmission of HIV/AIDS to parents and their children, and connect orphaned children with permanent families through adoption; and

(3) humanitarian assistance programs funded with amounts appropriated in this Act should be required to promote the permanent placement of orphaned children, rather than long-term foster care or institutionalization, as the best means of caring for such children.

SA 420. Mr. BURNS submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

SEC. 6047.(a) In this section:

(1) The term ''Administrator'' means the Administrator of General Services.

(2) The term ''Federal land'' means the approximately 508,582.70 square feet of land on the easternmost lot depicted on the plat entitled ''Plat of Computation on a Tract of Land 'Taxed as Square 2055''', recorded in the Office of the Surveyor of the District of Columbia on page 81 of Survey Book 199, which is also taxed as part of Lot 800 in Square 2055.

(3) The term ''Fund'' means the State Department trust fund established under subsection (c)(4)(A).

(4) The term ''lease'' means the lease between the United States and the International Telecommunications Satellite Organization, dated June 8, 1982.

(5) The term ''Parks land'' means the parcels of land designated in the lease as Park I and Park II.

(6) The term ''Secretary'' means the Secretary of State.

(7) The term ''successor entity'' means the successor entity of the International Telecommunications Satellite Organization or an assignee of the successor entity.

(b) Notwithstanding Public Law 90–553 (82 Stat. 958), on request of the successor entity, the Secretary, in coordination with the Administrator, shall convey to the successor entity, by quitclaim deed, all right, title, and interest of the United States in and to—

(1) the Federal land; and

(2) the Parks land.

(c)(1) The amount of consideration for the conveyance of Federal land under subsection (b)(1) shall be determined in accordance with Article 10–1 of the lease.

(2) The amount of consideration for the conveyance of the Parks land under subsection (b)(2) shall be—

(A) determined in accordance with the terms of the lease; or

(B) in an amount agreed to by the Secretary and the successor entity.

(3) On the conveyance of the Federal land and the Parks land under subsection (b), the successor entity shall pay to the United States the full amount of consideration (as determined under paragraph (1) or (2)).

(4)(A) Amounts received by the United States as consideration under paragraph (3) shall be deposited in a State Department trust fund, to be established within the Treasury.

(B) Amounts deposited in the Fund under subparagraph (A)—

(i) shall be used by the Secretary, in coordination with the Administrator, for the costs of surveys, plans, expert assistance, and acquisition relating to the development of additional areas within the National Capital Region for chancery and diplomatic purposes;

(ii) may be used to pay the administrative expenses of the Secretary and the Administrator in carrying out this section;

(iii) may be invested in public debt obligations; and

(iv) shall remain available until expended.

(d) The conveyance of the Federal land and Parks land under subsection (b) shall be subject to the terms and conditions described in this section and any other terms and conditions agreed to by the Secretary and the successor entity, which shall be included in the quitclaim deed referred to in subsection (b).

(e)(1) The conveyance of the Federal land and Parks land under subsection (b) shall be subject to restrictions on the use, development, or occupancy of the Federal land and Parks land (including restrictions on leasing and subleasing) that provide that the Secretary may prohibit any use, development, occupancy, lease, or sublease that the Secretary determines could—

(A) impair the safety or security of the International Center;

(B) impair the continued operation of the International Center; and

(C) be contrary to the character of commercially acceptable occupants or uses in the surrounding area.

(2) A determination under paragraph (1) that is based on safety or security considerations shall—

(A) only be made by the Secretary; and

(B) be final and conclusive as a matter of law.

(3) A determination under paragraph (1) that is based on damage to the continued operation of the International Center or incompatibility with the character of commercially acceptable occupants or uses in the surrounding area shall be subject to judicial review.

(4) If the successor entity fails to submit any use, development, or occupancy of the Federal land or Parks land to the Secretary for prior approval or violates any restriction imposed by the Secretary, the Secretary may—

(A) bring a civil action in any appropriate district court of the United States to enjoin the use, development, or occupancy; and

(B) obtain any appropriate legal or equitable remedies to require full and immediate compliance with the covenant.

(5) Any transfer (including a sale, lease, or sublease) of any interest in the Federal land or Parks land in violation of the restrictions included in the quitclaim deed or otherwise imposed by the Secretary shall be null and void.

(f) On conveyance to the successor entity, the Federal land and Parks land shall not be subject to Public Law 90–553 (82 Stat. 958) or the lease.

(g) The authority of the Secretary under this section shall not be subject to—

(1) sections 521 through 529 and sections 541 through 559 of title 40, United States Code;

(2) any other provision of Federal law that is inconsistent with this section; or

(3) any other provision of Federal law relating to environmental protection or historic preservation.

(h) The Federal land and Parks land shall not be considered to be unutilized or underutilized for purposes of section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411).

SA 421. Mr. KENNEDY (for himself and Mr. KOHL) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

PERMANENT MAGNET MOTOR FOR NEXT GENERATION DESTROYER PROGRAM

SEC. 1122. (a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY.—The amount appropriated by this chapter under the heading ''RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY'' is hereby increased by $15,000,000, with the amount of such increase designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(b) AVAILABILITY OF FUNDS.—Of the amount appropriated or otherwise made available by this Act under the heading ''RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY'', as increased by subsection (a), $15,000,000 shall be available for continued development and testing of the Permanent Magnet Motor for the next generation destroyer (DD(X)) program.

SA 422. Mr. COCHRAN (for Mr. LEAHY (for himself and Mr. OBAMA)) proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorist from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 194, line 14, delete ''should'' and insert in lieu thereof ''shall''.

On page 194, line 16, delete ''Avian flu'' and insert in lieu thereof ''avian influenza virus, to be administered by the United States Agency for International Development''.

SA 423. Mr. COCHRAN (for Mr. LEAHY) proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 183, after line 23, insert the following new general provision:

SEC. . The amounts set forth in the eighth proviso in the Diplomatic and Consular Programs appropriation in the FY 2005 Department of Commerce, Justice, State, the Judiciary, and Related Agencies Appropriations Act (P.L. 108–447, Div. B) may be subject to reprogramming pursuant to section 605 of that Act.

SA 424. Mr. COCHRAN proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 219 of the bill, line 16, strike ''or'' and insert ''and'';

On page 219 of the bill, line 17, after ''and'' insert ''seismic-related''.

SA 425. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 194, line 13, after ''tsunami:'' insert ''*Provided further*, That of the funds appropriated under this heading, not less that $20,000,000 shall be made available for microcredit programs in countries affected by the tsunami, to be administered by the United States Agency for International Development:''.

SA 426. Mr. SANTORUM (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

VISA WAIVER COUNTRY

SEC. 6047. (a) Congress makes the following findings:

(1) Since the founding of the United States, Poland has proven its steadfast dedication to the causes of freedom and friendship with the United States, exemplified by the brave actions of Polish patriots such as Casimir Pulaski and Tadeusz Kosciuszko during the American Revolution.

(2) Polish history provides pioneering examples of constitutional democracy and religious tolerance.

(3) The United States is home to nearly 9,000,000 people of Polish ancestry.

(4) Polish immigrants have contributed greatly to the success of industry and agriculture in the United States.

(5) Since the demise of communism, Poland has become a stable, democratic nation.

(6) Poland has adopted economic policies that promote free markets and rapid economic growth.

(7) On March 12, 1999, Poland demonstrated its commitment to global security by becoming a member of the North Atlantic Treaty Organization.

(8) On May 1, 2004, Poland became a member state of the European Union.

(9) Poland was a staunch ally to the United States during Operation Iraqi Freedom.

(10) Poland has committed 2,300 soldiers to help with ongoing peacekeeping efforts in Iraq.

(11) The Secretary of Homeland Security and Secretary of State administer the visa waiver program, which allows citizens from 27 countries, including France and Germany, to visit the United States as tourists without visas.

(12) On April 15, 1991, Poland unilaterally repealed the visa requirement for United States citizens traveling to Poland for 90 days or less.

(13) More than 100,000 Polish citizens visit the United States each year.

(b) Effective on the date of the enactment of this Act, and notwithstanding section 217(c) of the Immigration and Nationality Act (8 U.S.C. 1187(c)), Poland shall be deemed a designated program country for purposes of the visa waiver program established under section 217 of such Act.

SA 427. Mr. DURBIN (for himself, Mr. LEVIN, Mr. KENNEDY, Mr. BYRD, Mr. LEAHY, Mr. FEINGOLD, Mr. LAUTENBERG, and Mr. BINGAMAN) proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

REPORTS ON IRAQI SECURITY FORCES

SEC. 1122. Not later than 60 days after the date of enactment of this Act, and every 90 days thereafter, the President shall submit an unclassified report to Congress, which may include a classified annex, that includes a description of the following:

(1) The extent to which funding appropriated by this Act will be used to train and equip capable and effectively led Iraqi security services and promote stability and security in Iraq.

(2) The estimated strength of the Iraqi insurgency and the extent to which it is composed of non-Iraqi fighters, and any changes over the previous 90-day period.

(3) A description of all militias operating in Iraq, including their number, size, strength, military effectiveness, leadership, sources of external support, sources of internal support, estimated types and numbers of equipment and armaments in their possession, legal status, and the status of efforts to disarm, demobilize, and reintegrate each militia.

(4) The extent to which recruiting, training, and equipping goals and standards for Iraqi security forces are being met, including the number of Iraqis recruited and trained for the army, air force, navy, and other Ministry of Defense forces, police, and highway patrol of Iraq, and all other Ministry of Interior forces, and the extent to which personal and unit equipment requirements have been met.

(5) A description of the criteria for assessing the capabilities and readiness of Iraqi security forces.

(6) An evaluation of the operational readiness status of Iraqi military forces and special police, including the type, number, size, unit designation and organizational structure of Iraqi battalions that are—

(A) capable of conducting counterinsurgency operations independently;

(B) capable of conducting counterinsurgency operations with United States or Coalition mentors and enablers; or

(C) not ready to conduct counterinsurgency operations.

(7) The extent to which funding appropriated by this Act will be used to train capable, well-equipped, and effectively led Iraqi police forces, and an evaluation of Iraqi police forces, including—

(A) the number of police recruits that have received classroom instruction and the duration of such instruction;

(B) the number of veteran police officers who have received classroom instruction and the duration of such instruction;

(C) the number of Iraqi police forces who have received field training by international police trainers and the duration of such instruction;

(D) a description of the field training program, including the number, the planned number, and nationality of international field trainers;

(E) the number of police present for duty;

(F) data related to attrition rates; and

(G) a description of the training that Iraqi police have received regarding human rights and the rule of law.

(8) The estimated total number of Iraqi battalions needed for the Iraqi security forces to perform duties now being undertaken by the Coalition Forces, including defending Iraq's borders, defeating the insurgency, and providing law and order.

(9) The extent to which funding appropriated by this Act will be used to train Iraqi security forces in counterinsurgency operations and the estimated total number of Iraqi security force personnel expected to be trained, equipped, and capable of participating in counterinsurgency operations by the end of 2005 and of 2006.

(10) The estimated total number of adequately trained, equipped, and led Iraqi battalions expected to be capable of conducting counterinsurgency operations independently and the estimated total number expected to be capable of conducting counterinsurgency operations with United States or Coalition mentors and enablers by the end of 2005 and of 2006.

(11) An assessment of the effectiveness of the chain of command of the Iraqi military.

(12) The number and nationality of Coalition mentors and advisers working with Iraqi security forces as of the date of the report, plans for decreasing or increasing the number of such mentors and advisers, and a description of their activities.

(13) A list of countries of the North Atlantic Treaty Organisation (''NATO'') participating in the NATO mission for training of Iraqi security forces and the number of troops from each country dedicated to the mission.

(14) A list of countries participating in training Iraqi security forces outside the NATO training mission and the number of troops from each country dedicated to the mission.

(15) For any country, which made an offer to provide forces for training that has not been accepted, an explanation of the reasons why the offer was not accepted.

(16) A list of foreign countries that have withdrawn troops from the Multinational Security Coalition in Iraq during the previous 90 days and the number of troops withdrawn.

(17) A list of foreign countries that have added troops to the Coalition in Iraq during the previous 90 days and the number of troops added.

(18) For offers to provide forces for training that have been accepted by the Iraqi government, a report on the status of such training efforts, including the number of troops involved by country and the number of Iraqi security forces trained.

(19) An assessment of the progress of the National Assembly of Iraq in drafting and ratifying the permanent constitution of Iraq, and the performance of the new Iraqi Government in its protection of the rights of minorities and individual human rights, and its adherence to common democratic practices.

(20) The estimated number of United States military forces who will be needed in Iraq 6, 12, and 18 months from the date of the report.

SA 428. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

OFFICE OF THE SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION

(INCLUDING RESCISSIONS OF FUNDS)

SEC. 1122. (a) Subsection (o) of section 3001 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1234; 5 U.S.C. App. 3 section 8G note), as amended by section 1203(j) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2081) is amended by striking ''obligated'' and inserting ''expended''.

(b) Of the amount appropriated in chapter 2 of title II of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1224) under the heading ''OTHER BILATERAL ECONOMIC ASSISTANCE'' and under the subheading ''IRAQ RELIEF AND RECONSTRUCTION FUND'', $50,000,000 is hereby rescinded.

(c) There is appropriated $50,000,000 to carry out section 3001 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1234). Such amount shall be in addition to any other amount available for such purpose and available until the date of the termination of the Office of the Special Inspector General for Iraq Reconstruction.

SA 429. Mr. ISAKSON submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, after line 6, insert the following:

TITLE VII—REAL ID ACT OF 2005

SEC. 701. SHORT TITLE.

This title may be cited as the ''REAL ID Act of 2005''.

Subtitle A—Amendments to Federal Laws to Protect Against Terrorist Entry

SEC. 711. PREVENTING TERRORISTS FROM OBTAINING RELIEF FROM REMOVAL.

(a) CONDITIONS FOR GRANTING ASYLUM.—Section 208(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(1)) is amended—

(1) by striking ''The Attorney General'' the first place such term appears and inserting the following:

''(A) ELIGIBILITY.—The Secretary of Homeland Security or the Attorney General'';

(2) by striking ''the Attorney General'' the second and third places such term appears and inserting ''the Secretary of Homeland Security or the Attorney General''; and

(3) by adding at the end the following:

''(B) BURDEN OF PROOF.—

''(i) IN GENERAL.—The burden of proof is on the applicant to establish that the applicant is a refugee, within the meaning of section 101(a)(42)(A). To establish that the applicant is a refugee within the meaning of such section, the applicant must establish that race, religion, nationality, membership in a particular social group, or political opinion was or will be a central reason for persecuting the applicant.

''(ii) SUSTAINING BURDEN.—The testimony of the applicant may be sufficient to sustain the applicant's burden without corroboration, but only if the applicant satisfies the trier of fact that the applicant's testimony is credible, is persuasive, and refers to specific facts sufficient to demonstrate that the applicant is a refugee. In determining whether the applicant has met the applicant's burden, the trier of fact may weigh the credible testimony along with other evidence of record. Where the trier of fact determines, in the trier of fact's discretion, that the applicant should provide evidence which corroborates otherwise credible testimony, such evidence must be provided unless the applicant does not have the evidence and cannot reasonably obtain the evidence without departing the United States. The inability to obtain corroborating evidence does not excuse the applicant from meeting the applicant's burden of proof.

''(iii) CREDIBILITY DETERMINATION.—The trier of fact should consider all relevant factors and may, in the trier of fact's discretion, base the trier of fact's credibility determination on any such factor, including the demeanor, candor, or responsiveness of the applicant or witness, the inherent plausibility of the applicant's or witness's account, the consistency between the applicant's or witness's written and oral statements (whenever made and whether or not made under oath), the internal consistency of each such statement, the consistency of such statements with other evidence of record (including the reports of the Department of State on country conditions), and any inaccuracies or falsehoods in such statements, without regard to whether an inconsistency, inaccuracy, or falsehood goes to the heart of the applicant's claim. There is no presumption of credibility.''.

(b) WITHHOLDING OF REMOVAL.—Section 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)) is amended by adding at the end the following:

''(C) SUSTAINING BURDEN OF PROOF; CREDIBILITY DETERMINATIONS.—In determining whether an alien has demonstrated that the alien's life or freedom would be threatened for a reason described in subparagraph (A), the trier of fact shall determine whether the alien has sustained the alien's burden of proof, and shall make credibility determinations, in the manner described in clauses (ii) and (iii) of section 208(b)(1)(B).''.

(c) OTHER REQUESTS FOR RELIEF FROM REMOVAL.—Section 240(c) of the Immigration and Nationality Act (8 U.S.C. 1230(c)) is amended—

(1) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively; and

(2) by inserting after paragraph (3) the following:

''(4) APPLICATIONS FOR RELIEF FROM REMOVAL.—

''(A) IN GENERAL.—An alien applying for relief or protection from removal has the burden of proof to establish that the alien—

''(i) satisfies the applicable eligibility requirements; and

''(ii) with respect to any form of relief that is granted in the exercise of discretion, that the alien merits a favorable exercise of discretion.

''(B) SUSTAINING BURDEN.—The applicant must comply with the applicable requirements to submit information or documentation in support of the applicant's application for relief or protection as provided by law or by regulation or in the instructions for the application form. In evaluating the testimony of the applicant or other witness in support of the application, the immigration judge will determine whether or not the testimony is credible, is persuasive, and refers to specific facts sufficient to demonstrate that the applicant has satisfied the applicant's burden of proof. In determining whether the applicant has met such burden, the immigration judge shall weigh the credible testimony along with other evidence of record. Where the immigration judge determines in the judge's discretion that the applicant should provide evidence which corroborates otherwise credible testimony, such evidence must be provided unless the applicant demonstrates that the applicant does not have the evidence and cannot reasonably obtain the evidence without departing from the United States. The inability to obtain corroborating evidence does not excuse the applicant from meeting the burden of proof.

''(C) CREDIBILITY DETERMINATION.—The immigration judge should consider all relevant factors and may, in the judge's discretion, base the judge's credibility determination on any such factor, including the demeanor, candor, or responsiveness of the applicant or witness, the inherent plausibility of the applicant's or witness's account, the consistency between the applicant's or witness's written and oral statements (whenever made and whether or not made under oath), the internal consistency of each such statement, the consistency of such statements with other evidence of record (including the reports of the Department of State on country conditions), and any inaccuracies or falsehoods in such statements, without regard to whether an inconsistency, inaccuracy, or falsehood goes to the heart of the applicant's claim. There is no presumption of credibility.''.

(d) STANDARD OF REVIEW FOR ORDERS OF REMOVAL.—Section 242(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1252(b)(4)) is amended by adding at the end, after subparagraph (D), the following: ''No court shall reverse a determination made by a trier of fact with respect to the availability of corroborating evidence, as described in section 208(b)(1)(B), 240(c)(4)(B), or 241(b)(3)(C), unless the court finds that a reasonable trier of fact is compelled to conclude that such corroborating evidence is unavailable.''.

(e) CLARIFICATION OF DISCRETION.—Section 242(a)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(2)(B)) is amended—

(1) by inserting ''or the Secretary of Homeland Security'' after ''Attorney General'' each place such term appears; and

(2) in the matter preceding clause (i), by inserting ''and regardless of whether the judgment, decision, or action is made in removal proceedings,'' after ''other provision of law,''.

(f) REMOVAL OF CAPS.—Section 209 of the Immigration and Nationality Act (8 U.S.C. 1159) is amended—

(1) in subsection (a)(1)—

(A) by striking ''Service'' and inserting ''Department of Homeland Security''; and

(B) by striking ''Attorney General'' each place such term appears and inserting ''Secretary of Homeland Security or the Attorney General'';

(2) in subsection (b)—

(A) by striking ''Not more'' and all that follows through ''asylum who—'' and inserting ''The Secretary of Homeland Security or the Attorney General, in the Secretary's or the Attorney General's discretion and under such regulations as the Secretary or the Attorney General may prescribe, may adjust to the status of an alien lawfully admitted for permanent residence the status of any alien granted asylum who—''; and

(B) in the matter following paragraph (5), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security or the Attorney General''; and

(3) in subsection (c), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security or the Attorney General''.

(g) EFFECTIVE DATES.—

(1) The amendments made by paragraphs (1) and (2) of subsection (a) shall take effect as if enacted on March 1, 2003.

(2) The amendments made by subsections (a)(3), (b), and (c) shall take effect on the date of the enactment of this title and shall apply to applications for asylum, withholding, or other removal made on or after such date.

(3) The amendment made by subsection (d) shall take effect on the date of the enactment of this title and shall apply to all cases in which the final administrative removal order is or was issued before, on, or after such date.

(4) The amendments made by subsection (e) shall take effect on the date of the enactment of this title and shall apply to all cases pending before any court on or after such date.

(5) The amendments made by subsection (f) shall take effect on the date of the enactment of this title.

(h) REPEAL.—Section 5403 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458) is repealed.

SEC. 712. WAIVER OF LAWS NECESSARY FOR IMPROVEMENT OF BARRIERS AT BORDERS.

Section 102(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) is amended to read as follows:

''(c) WAIVER.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall have the authority to waive, and shall waive, all laws such Secretary, in such Secretary's sole discretion, determines necessary to ensure expeditious construction of the barriers and roads under this section.

''(2) NO JUDICIAL REVIEW.—Notwithstanding any other provision of law (statutory or nonstatutory), no court, administrative agency, or other entity shall have jurisdiction—

''(A) to hear any cause or claim arising from any action undertaken, or any decision made, by the Secretary of Homeland Security pursuant to paragraph (1); or

''(B) to order compensatory, declaratory, injunctive, equitable, or any other relief for damage alleged to arise from any such action or decision.''.

SEC. 713. INADMISSIBILITY DUE TO TERRORIST AND TERRORIST-RELATED ACTIVITIES.

(a) IN GENERAL.—So much of section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)) as precedes the final sentence is amended to read as follows:

''(i) IN GENERAL.—Any alien who—

''(I) has engaged in a terrorist activity;

''(II) a consular officer, the Attorney General, or the Secretary of Homeland Security knows, or has reasonable ground to believe, is engaged in or is likely to engage after entry in any terrorist activity (as defined in clause (iv));

''(III) has, under circumstances indicating an intention to cause death or serious bodily harm, incited terrorist activity;

''(IV) is a representative (as defined in clause (v)) of—

''(aa) a terrorist organization (as defined in clause (vi)); or

''(bb) a political, social, or other group that endorses or espouses terrorist activity;

''(V) is a member of a terrorist organization described in subclause (I) or (II) of clause (vi);

''(VI) is a member of a terrorist organization described in clause (vi)(III), unless the alien can demonstrate by clear and convincing evidence that the alien did not know, and should not reasonably have known, that the organization was a terrorist organization;

''(VII) endorses or espouses terrorist activity or persuades others to endorse or espouse terrorist activity or support a terrorist organization;

''(VIII) has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a terrorist organization (as defined in clause (vi)); or

''(IX) is the spouse or child of an alien who is inadmissible under this subparagraph, if the activity causing the alien to be found inadmissible occurred within the last 5 years, is inadmissible.''.

(b) ENGAGE IN TERRORIST ACTIVITY DEFINED.—Section 212(a)(3)(B)(iv) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(iv)) is amended to read as follows:

''(iv) ENGAGE IN TERRORIST ACTIVITY DEFINED.—As used in this Act, the term 'engage in terrorist activity' means, in an individual capacity or as a member of an organization—

''(I) to commit or to incite to commit, under circumstances indicating an intention to cause death or serious bodily injury, a terrorist activity;

''(II) to prepare or plan a terrorist activity;

''(III) to gather information on potential targets for terrorist activity;

''(IV) to solicit funds or other things of value for—

''(aa) a terrorist activity;

''(bb) a terrorist organization described in clause (vi)(I) or (vi)(II); or

''(cc) a terrorist organization described in clause (vi)(III), unless the solicitor can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist organization;

''(V) to solicit any individual—

''(aa) to engage in conduct otherwise described in this subsection;

''(bb) for membership in a terrorist organization described in clause (vi)(I) or (vi)(II); or

''(cc) for membership in a terrorist organization described in clause (vi)(III) unless the solicitor can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist organization; or

''(VI) to commit an act that the actor knows, or reasonably should know, affords material support, including a safe house, transportation, communications, funds, transfer of funds or other material financial benefit, false documentation or identification, weapons (including chemical, biological, or radiological weapons), explosives, or training—

''(aa) for the commission of a terrorist activity;

''(bb) to any individual who the actor knows, or reasonably should know, has committed or plans to commit a terrorist activity;

''(cc) to a terrorist organization described in subclause (I) or (II) of clause (vi) or to any member of such an organization; or

''(dd) to a terrorist organization described in clause (vi)(III), or to any member of such an organization, unless the actor can demonstrate by clear and convincing evidence that the actor did not know, and should not reasonably have known, that the organization was a terrorist organization.

This clause shall not apply to any material support the alien afforded to an organization or individual that has committed terrorist activity, if the Secretary of State, after consultation with the Attorney General and the Secretary of Homeland Security, or the Attorney General, after consultation with the Secretary of State and the Secretary of Homeland Security, concludes in his sole unreviewable discretion, that this clause should not apply.''.

(c) TERRORIST ORGANIZATION DEFINED.—Section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)) is amended to read as follows:

''(vi) TERRORIST ORGANIZATION DEFINED.—As used in this section, the term 'terrorist organization' means an organization—

''(I) designated under section 219;

''(II) otherwise designated, upon publication in the Federal Register, by the Secretary of State in consultation with or upon the request of the Attorney General or the Secretary of Homeland Security, as a terrorist organization, after finding that the organization engages in the activities described in subclauses (I) through (VI) of clause (iv); or

''(III) that is a group of two or more individuals, whether organized or not, which engages in, or has a subgroup which engages in, the activities described in subclauses (I) through (VI) of clause (iv).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this title, and these amendments, and section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)), as amended by this section, shall apply to—

(1) removal proceedings instituted before, on, or after the date of the enactment of this title; and

(2) acts and conditions constituting a ground for inadmissibility, excludability, deportation, or removal occurring or existing before, on, or after such date.

SEC. 714. REMOVAL OF TERRORISTS.

(a) IN GENERAL.—

(1) IN GENERAL.—Section 237(a)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(B)) is amended to read as follows:

''(B) TERRORIST ACTIVITIES.—Any alien who is described in subparagraph (B) or (F) of section 212(a)(3) is deportable.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this title, and the amendment, and section 237(a)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(B)), as amended by such paragraph, shall apply to—

(A) removal proceedings instituted before, on, or after the date of the enactment of this title; and

(B) acts and conditions constituting a ground for inadmissibility, excludability, deportation, or removal occurring or existing before, on, or after such date.

(b) REPEAL.—Effective as of the date of the enactment of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458), section 5402 of such Act is repealed, and the Immigration and Nationality Act shall be applied as if such section had not been enacted.

SEC. 715. JUDICIAL REVIEW OF ORDERS OF REMOVAL.

(a) IN GENERAL.—Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraph (A), by inserting ''(statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title'' after ''Notwithstanding any other provision of law'';

(ii) in each of subparagraphs (B) and (C), by inserting ''(statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, and except as provided in subparagraph (D)'' after ''Notwithstanding any other provision of law''; and

(iii) by adding at the end the following:

''(D) JUDICIAL REVIEW OF CERTAIN LEGAL CLAIMS.—Nothing in subparagraph (B) or (C), or in any other provision of this Act which limits or eliminates judicial review, shall be construed as precluding review of constitutional claims or pure questions of law raised upon a petition for review filed with an appropriate court of appeals in accordance with this section.''; and

(B) by adding at the end the following:

''(4) CLAIMS UNDER THE UNITED NATIONS CONVENTION.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, a petition for review filed with an appropriate court of appeals in accordance with this section shall be the sole and exclusive means for judicial review of any cause or claim under the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman, or Degrading Treatment or Punishment, except as provided in subsection (e).

''(5) EXCLUSIVE MEANS OF REVIEW.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, a petition for review filed with an appropriate court of appeals in accordance with this section shall be the sole and exclusive means for judicial review of an order of removal entered or issued under any provision of this Act, except as provided in subsection (e). For purposes of this Act, in every provision that limits or eliminates judicial review or jurisdiction to review, the terms 'judicial review' and 'jurisdiction to review' include habeas corpus review pursuant to section 2241 of title 28, United States Code, or any other habeas corpus provision, sections 1361 and 1651 of such title, and review pursuant to any other provision of law (statutory or nonstatutory).'';

(2) in subsection (b)—

(A) in paragraph (3)(B), by inserting ''pursuant to subsection (f)'' after ''unless''; and

(B) in paragraph (9), by adding at the end the following: ''Except as otherwise provided in this section, no court shall have jurisdiction, by habeas corpus under section 2241 of title 28, United States Code, or any other habeas corpus provision, by section 1361 or 1651 of such title, or by any other provision of law (statutory or nonstatutory), to review such an order or such questions of law or fact.''; and

(3) in subsection (g), by inserting ''(statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title'' after ''notwithstanding any other provision of law''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect upon the date of the enactment of this title and shall apply to cases in which the final administrative order of removal, deportation, or exclusion was issued before, on, or after the date of the enactment of this title.

(c) TRANSFER OF CASES.—If an alien's case, brought under section 2241 of title 28, United States Code, and challenging a final administrative order of removal, deportation, or exclusion, is pending in a district court on the date of the enactment of this title, then the district court shall transfer the case (or the part of the case that challenges the order of removal, deportation, or exclusion) to the court of appeals for the circuit in which a petition for review could have been properly filed under section 242(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1252), as amended by this section, or under section 309(c)(4)(D) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note). The court of appeals shall treat the transferred case as if it had been filed pursuant to a petition for review under such section 242, except that subsection (b)(1) of such section shall not apply.

(d) TRANSITIONAL RULE CASES.—A petition for review filed under former section 106(a) of the Immigration and Nationality Act (as in effect before its repeal by section 306(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1252 note)) shall be treated as if it had been filed as a petition for review under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252), as amended by this section. Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or

any other habeas corpus provision, and sections 1361 and 1651 of such title, such petition for review shall be the sole and exclusive means for judicial review of an order of deportation or exclusion.

SEC. 716. DELIVERY BONDS.

(a) DEFINITIONS.—For purposes of this section:

(1) DELIVERY BOND.—The term ''delivery bond'' means a written suretyship undertaking for the surrender of an individual against whom the Department of Homeland Security has issued an order to show cause or a notice to appear, the performance of which is guaranteed by an acceptable surety on Federal bonds.

(2) PRINCIPAL.—The term ''principal'' means an individual who is the subject of a bond.

(3) SURETYSHIP UNDERTAKING.—The term ''suretyship undertaking'' means a written agreement, executed by a bonding agent on behalf of a surety, which binds all parties to its certain terms and conditions and which provides obligations for the principal and the surety while under the bond and penalties for forfeiture to ensure the obligations of the principal and the surety under the agreement.

(4) BONDING AGENT.—The term ''bonding agent'' means any individual properly licensed, approved, and appointed by power of attorney to execute or countersign surety bonds in connection with any matter governed by the Immigration and Nationality Act as amended (8 U.S.C. 1101, et seq.), and who receives a premium for executing or countersigning such surety bonds.

(5) SURETY.—The term ''surety'' means an entity, as defined by, and that is in compliance with, sections 9304 through 9308 of title 31, United States Code, that agrees—

(A) to guarantee the performance, where appropriate, of the principal under a bond;

(B) to perform the bond as required; and

(C) to pay the face amount of the bond as a penalty for failure to perform.

(b) VALIDITY, AGENT NOT CO-OBLIGOR, EXPIRATION, RENEWAL, AND CANCELLATION OF BONDS.—

(1) VALIDITY.—Delivery bond undertakings are valid if such bonds—

(A) state the full, correct, and proper name of the alien principal;

(B) state the amount of the bond;

(C) are guaranteed by a surety and countersigned by an agent who is properly appointed;

(D) bond documents are properly executed; and

(E) relevant bond documents are properly filed with the Secretary of Homeland Security.

(2) BONDING AGENT NOT CO-OBLIGOR, PARTY, OR GUARANTOR IN INDIVIDUAL CAPACITY, AND NO REFUSAL IF ACCEPTABLE SURETY.—Section 9304(b) of title 31, United States Code, is amended by adding at the end the following: ''Notwithstanding any other provision of law, no bonding agent of a corporate surety shall be required to execute bonds as a co-obligor, party, or guarantor in an individual capacity on bonds provided by the corporate surety, nor shall a corporate surety bond be refused if the corporate surety appears on the current Treasury Department Circular 570 as a company holding a certificate of authority as an acceptable surety on Federal bonds and attached to the bond is a currently valid instrument showing the authority of the bonding agent of the surety company to execute the bond.''.

(3) EXPIRATION.—A delivery bond undertaking shall expire at the earliest of—

(A) 1 year from the date of issue;

(B) at the cancellation of the bond or surrender of the principal; or

(C) immediately upon nonpayment of the renewal premium.

(4) RENEWAL.—Delivery bonds may be renewed annually, with payment of proper premium to the surety, if there has been no breach of conditions, default, claim, or forfeiture of the bond. Notwithstanding any renewal, when the alien is surrendered to the Secretary of Homeland Security for removal, the Secretary shall cause the bond to be canceled.

(5) CANCELLATION.—Delivery bonds shall be canceled and the surety exonerated—

(A) for nonrenewal after the alien has been surrendered to the Department of Homeland Security for removal;

(B) if the surety or bonding agent provides reasonable evidence that there was misrepresentation or fraud in the application for the bond;

(C) upon the death or incarceration of the principal, or the inability of the surety to produce the principal for medical reasons;

(D) if the principal is detained by any law enforcement agency of any State, county, city, or any political subdivision thereof;

(E) if it can be established that the alien departed the United States of America for any reason without permission of the Secretary of Homeland Security, the surety, or the bonding agent;

(F) if the foreign state of which the principal is a national is designated pursuant to section 244 of the Act (8 U.S.C. 1254a) after the bond is posted; or

(G) if the principal is surrendered to the Department of Homeland Security, removal by the surety or the bonding agent.

(6) SURRENDER OF PRINCIPAL; FORFEITURE OF BOND PREMIUM.—

(A) SURRENDER.—At any time, before a breach of any of the bond conditions, if in the opinion of the surety or bonding agent, the principal becomes a flight risk, the principal may be surrendered to the Department of Homeland Security for removal.

(B) FORFEITURE OF BOND PREMIUM.—A principal may be surrendered without the return of any bond premium if the principal—

(i) changes address without notifying the surety, the bonding agent, and the Secretary of Homeland Security in writing prior to such change;

(ii) hides or is concealed from a surety, a bonding agent, or the Secretary;

(iii) fails to report to the Secretary as required at least annually; or

(iv) violates the contract with the bonding agent or surety, commits any act that may lead to a breach of the bond, or otherwise violates any other obligation or condition of the bond established by the Secretary.

(7) CERTIFIED COPY OF BOND AND ARREST WARRANT TO ACCOMPANY SURRENDER.—

(A) IN GENERAL.—A bonding agent or surety desiring to surrender the principal—

(i) shall have the right to petition the Secretary of Homeland Security or any Federal court, without having to pay any fees or court costs, for an arrest warrant for the arrest of the principal;

(ii) shall forthwith be provided 2 certified copies each of the arrest warrant and the bond undertaking, without having to pay any fees or courts costs; and

(iii) shall have the right to pursue, apprehend, detain, and surrender the principal, together with certified copies of the arrest warrant and the bond undertaking, to any Department of Homeland Security detention official or Department detention facility or any detention facility authorized to hold Federal detainees.

(B) EFFECTS OF DELIVERY.—Upon surrender of a principal under subparagraph (A)(iii)—

(i) the official to whom the principal is surrendered shall detain the principal in custody and issue a written certificate of surrender; and

(ii) the Secretary of Homeland Security shall immediately exonerate the surety from any further liability on the bond.

(8) FORM OF BOND.—Delivery bonds shall in all cases state the following and be secured by a corporate surety that is certified as an acceptable surety on Federal bonds and whose name appears on the current Treasury Department Circular 570:

''(A) BREACH OF BOND; PROCEDURE, FORFEITURE, NOTICE.—

''(i) If a principal violates any conditions of the delivery bond, or the principal is or becomes subject to a final administrative order of deportation or removal, the Secretary of Homeland Security shall—

''(I) immediately issue a warrant for the principal's arrest and enter that arrest warrant into the National Crime Information Center (NCIC) computerized information database;

''(II) order the bonding agent and surety to take the principal into custody and surrender the principal to any one of 10 designated Department of Homeland Security 'turn-in' centers located nationwide in the areas of greatest need, at any time of day during 15 months after mailing the arrest warrant and the order to the bonding agent and the surety as required by subclause (III), and immediately enter that order into the National Crime Information Center (NCIC) computerized information database; and

''(III) mail 2 certified copies each of the arrest warrant issued pursuant to subclause (I) and 2 certified copies each of the order issued pursuant to subclause (II) to only the bonding agent and surety via certified mail return receipt to their last known addresses.

''(ii) Bonding agents and sureties shall immediately notify the Secretary of Homeland Security of their changes of address and/or telephone numbers.

''(iii) The Secretary of Homeland Security shall establish, disseminate to bonding agents and sureties, and maintain on a current basis a secure nationwide toll-free list of telephone numbers of Department of Homeland Security officials, including the names of such officials, that bonding agents, sureties, and their employees may immediately contact at any time to discuss and resolve any issue regarding any principal or bond, to be known as 'Points of Contact'.

''(iv) A bonding agent or surety shall have full and complete access, free of charge, to any and all information, electronic or otherwise, in the care, custody, and control of the United States Government or any State or local government or any subsidiary or police agency thereof regarding the principal that may be helpful in complying with section 715 of the REAL ID Act of 2005 that the Secretary of Homeland Security, by regulations subject to approval by Congress, determines may be helpful in locating or surrendering the principal. Beyond the principal, a bonding agent or surety shall not be required to disclose any information, including but not limited to the arrest warrant and order, received from any governmental source, any person, firm, corporation, or other entity.

''(v) If the principal is later arrested, detained, or otherwise located outside the United States and the outlying possessions of the United States (as defined in section 101(a) of the Immigration and Nationality Act), the Secretary of Homeland Security shall—

''(I) immediately order that the surety is completely exonerated, and the bond canceled; and

''(II) if the Secretary of Homeland Security has issued an order under clause (i), the surety may request, by written, properly filed

motion, reinstatement of the bond. This subclause may not be construed to prevent the Secretary of Homeland Security from revoking or resetting a bond at a higher amount.

''(vi) The bonding agent or surety must—

''(I) during the 15 months after the date the arrest warrant and order were mailed pursuant to clause (i)(III) surrender the principal one time; or

''(II)(aa) provide reasonable evidence that producing the principal was prevented—

''(AA) by the principal's illness or death;

''(BB) because the principal is detained in custody in any city, State, country, or any political subdivision thereof;

''(CC) because the principal has left the United States or its outlying possessions (as defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)); or

''(DD) because required notice was not given to the bonding agent or surety; and

''(bb) establish by affidavit that the inability to produce the principal was not with the consent or connivance of the bonding agent or surety.

''(vii) If compliance occurs more than 15 months but no more than 18 months after the mailing of the arrest warrant and order to the bonding agent and the surety required under clause (i)(III), an amount equal to 25 percent of the face amount of the bond shall be assessed as a penalty against the surety.

''(viii) If compliance occurs more than 18 months but no more than 21 months after the mailing of the arrest warrant and order to the bonding agent and the surety required under clause (i)(III), an amount equal to 50 percent of the face amount of the bond shall be assessed as a penalty against the surety.

''(ix) If compliance occurs more than 21 months but no more than 24 months after the mailing of the arrest warrant and order to the bonding agent and the surety required under clause (i)(III), an amount equal to 75 percent of the face amount of the bond shall be assessed as a penalty against the surety.

''(x) If compliance occurs 24 months or more after the mailing of the arrest warrant and order to the bonding agent and the surety required under clause (i)(III), an amount equal to 100 percent of the face amount of the bond shall be assessed as a penalty against the surety.

''(xi) If any surety surrenders any principal to the Secretary of Homeland Security at any time and place after the period for compliance has passed, the Secretary of Homeland Security shall cause to be issued to that surety an amount equal to 50 percent of the face amount of the bond: *Provided*, *however*, That if that surety owes any penalties on bonds to the United States, the amount that surety would otherwise receive shall be offset by and applied as a credit against the amount of penalties on bonds it owes the United States, and then that surety shall receive the remainder of the amount to which it is entitled under this subparagraph, if any.

''(xii) All penalties assessed against a surety on a bond, if any, shall be paid by the surety no more than 27 months after the mailing of the arrest warrant and order to the bonding agent and the surety required under clause (i)(III).

''(B) The Secretary of Homeland Security may waive penalties or extend the period for payment or both, if—

''(i) a written request is filed with the Secretary of Homeland Security; and

''(ii) the bonding agent or surety provides an affidavit that diligent efforts were made to effect compliance of the principal.

''(C) COMPLIANCE; EXONERATION; LIMITATION OF LIABILITY.—

''(i) COMPLIANCE.—A bonding agent or surety shall have the absolute right to locate, apprehend, arrest, detain, and surrender any principal, wherever he or she may be found, who violates any of the terms and conditions of his or her bond.

''(ii) EXONERATION.—Upon satisfying any of the requirements of the bond, the surety shall be completely exonerated.

''(iii) LIMITATION OF LIABILITY.—Notwithstanding any other provision of law, the total liability on any surety undertaking shall not exceed the face amount of the bond.''.

(c) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this title and shall apply to bonds and surety undertakings executed before, on, or after the date of the enactment of this title.

SEC. 717. RELEASE OF ALIENS IN REMOVAL PROCEEDINGS.

(a) IN GENERAL.—Section 236(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1226(a)(2)) is amended to read as follows:

''(2) subject to such reasonable regulations as the Secretary of Homeland Security may prescribe, shall permit agents, servants, and employees of corporate sureties to visit in person with individuals detained by the Secretary of and, subject to section 241(a)(8), may release the alien on a delivery bond of at least $10,000, with security approved by the Secretary, and containing conditions and procedures prescribed by section 715 of the REAL ID Act of 2005 and by the Secretary, but the Secretary shall not release the alien on or to his own recognizance unless an order of an immigration judge expressly finds and states in a signed order to release the alien to his own recognizance that the alien is not a flight risk and is not a threat to the United States''.

(b) REPEAL.—Section 286(r) of the Immigration and Nationality Act (8 U.S.C. 1356(r)) is repealed.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this title.

SEC. 718. DETENTION OF ALIENS DELIVERED BY BONDSMEN.

(a) IN GENERAL.—Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1231(a)) is amended by adding at the end the following:

''(8) EFFECT OF PRODUCTION OF ALIEN BY BONDSMAN.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall take into custody any alien subject to a final order of removal, and cancel any bond previously posted for the alien, if the alien is produced within the prescribed time limit by the obligor on the bond whether or not the Department of Homeland Security accepts custody of the alien. The obligor on the bond shall be deemed to have substantially performed all conditions imposed by the terms of the bond, and shall be released from liability on the bond, if the alien is produced within such time limit.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this title and shall apply to all immigration bonds posted before, on, or after such date.

Subtitle B—Improved Security for Drivers' Licenses and Personal Identification Cards

SEC. 721. DEFINITIONS.

In this subtitle, the following definitions apply:

(1) DRIVER'S LICENSE.—The term ''driver's license'' means a motor vehicle operator's license, as defined in section 30301 of title 49, United States Code.

(2) IDENTIFICATION CARD.—The term ''identification card'' means a personal identification card, as defined in section 1028(d) of title 18, United States Code, issued by a State.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

(4) STATE.—The term ''State'' means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

SEC. 722. MINIMUM DOCUMENT REQUIREMENTS AND ISSUANCE STANDARDS FOR FEDERAL RECOGNITION.

(a) MINIMUM STANDARDS FOR FEDERAL USE.—

(1) IN GENERAL.—Beginning 3 years after the date of the enactment of this title, a Federal agency may not accept, for any official purpose, a driver's license or identification card issued by a State to any person unless the State is meeting the requirements of this section.

(2) STATE CERTIFICATIONS.—The Secretary shall determine whether a State is meeting the requirements of this section based on certifications made by the State to the Secretary of Transportation. Such certifications shall be made at such times and in such manner as the Secretary of Transportation, in consultation with the Secretary of Homeland Security, may prescribe by regulation.

(b) MINIMUM DOCUMENT REQUIREMENTS.—To meet the requirements of this section, a State shall include, at a minimum, the following information and features on each driver's license and identification card issued to a person by the State:

(1) The person's full legal name.

(2) The person's date of birth.

(3) The person's gender.

(4) The person's driver's license or identification card number.

(5) A digital photograph of the person.

(6) The person's address of principle residence.

(7) The person's signature.

(8) Physical security features designed to prevent tampering, counterfeiting, or duplication of the document for fraudulent purposes.

(9) A common machine-readable technology, with defined minimum data elements.

(c) MINIMUM ISSUANCE STANDARDS.—

(1) IN GENERAL.—To meet the requirements of this section, a State shall require, at a minimum, presentation and verification of the following information before issuing a driver's license or identification card to a person:

(A) A photo identity document, except that a non-photo identity document is acceptable if it includes both the person's full legal name and date of birth.

(B) Documentation showing the person's date of birth.

(C) Proof of the person's social security account number or verification that the person is not eligible for a social security account number.

(D) Documentation showing the person's name and address of principal residence.

(2) SPECIAL REQUIREMENTS.—

(A) IN GENERAL.—To meet the requirements of this section, a State shall comply with the minimum standards of this paragraph.

(B) EVIDENCE OF LAWFUL STATUS.—A State shall require, before issuing a driver's license or identification card to a person, valid documentary evidence that the person—

(i) is a citizen of the United States;

(ii) is an alien lawfully admitted for permanent or temporary residence in the United States;

(iii) has conditional permanent resident status in the United States;

(iv) has an approved application for asylum in the United States or has entered into the United States in refugee status;

(v) has a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States;

(vi) has a pending application for asylum in the United States;

(vii) has a pending or approved application for temporary protected status in the United States;

(viii) has approved deferred action status; or

(ix) has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States.

(C) TEMPORARY DRIVERS' LICENSES AND IDENTIFICATION CARDS.—

(i) IN GENERAL.—If a person presents evidence under any of clauses (v) through (ix) of subparagraph (B), the State may only issue a temporary driver's license or temporary identification card to the person.

(ii) EXPIRATION DATE.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph shall be valid only during the period of time of the applicant's authorized stay in the United States or, if there is no definite end to the period of authorized stay, a period of one year.

(iii) DISPLAY OF EXPIRATION DATE.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph shall clearly indicate that it is temporary and shall state the date on which it expires.

(iv) RENEWAL.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph may be renewed only upon presentation of valid documentary evidence that the status by which the applicant qualified for the temporary driver's license or temporary identification card has been extended by the Secretary of Homeland Security.

(3) VERIFICATION OF DOCUMENTS.—To meet the requirements of this section, a State shall implement the following procedures:

(A) Before issuing a driver's license or identification card to a person, the State shall verify, with the issuing agency, the issuance, validity, and completeness of each document required to be presented by the person under paragraph (1) or (2).

(B) The State shall not accept any foreign document, other than an official passport, to satisfy a requirement of paragraph (1) or (2).

(C) Not later than September 11, 2005, the State shall enter into a memorandum of understanding with the Secretary of Homeland Security to routinely utilize the automated system known as Systematic Alien Verification for Entitlements, as provided for by section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (110 Stat. 3009–664), to verify the legal presence status of a person, other than a United States citizen, applying for a driver's license or identification card.

(d) OTHER REQUIREMENTS.—To meet the requirements of this section, a State shall adopt the following practices in the issuance of drivers' licenses and identification cards:

(1) Employ technology to capture digital images of identity source documents so that the images can be retained in electronic storage in a transferable format.

(2) Retain paper copies of source documents for a minimum of 7 years or images of source documents presented for a minimum of 10 years.

(3) Subject each person applying for a driver's license or identification card to mandatory facial image capture.

(4) Establish an effective procedure to confirm or verify a renewing applicant's information.

(5) Confirm with the Social Security Administration a social security account number presented by a person using the full social security account number. In the event that a social security account number is already registered to or associated with another person to which any State has issued a driver's license or identification card, the State shall resolve the discrepancy and take appropriate action.

(6) Refuse to issue a driver's license or identification card to a person holding a driver's license issued by another State without confirmation that the person is terminating or has terminated the driver's license.

(7) Ensure the physical security of locations where drivers' licenses and identification cards are produced and the security of document materials and papers from which drivers' licenses and identification cards are produced.

(8) Subject all persons authorized to manufacture or produce drivers' licenses and identification cards to appropriate security clearance requirements.

(9) Establish fraudulent document recognition training programs for appropriate employees engaged in the issuance of drivers' licenses and identification cards.

(10) Limit the period of validity of all driver's licenses and identification cards that are not temporary to a period that does not exceed 8 years.

SEC. 723. LINKING OF DATABASES.

(a) IN GENERAL.—To be eligible to receive any grant or other type of financial assistance made available under this title, a State shall participate in the interstate compact regarding sharing of driver license data, known as the ''Driver License Agreement'', in order to provide electronic access by a State to information contained in the motor vehicle databases of all other States.

(b) REQUIREMENTS FOR INFORMATION.—A State motor vehicle database shall contain, at a minimum, the following information:

(1) All data fields printed on drivers' licenses and identification cards issued by the State.

(2) Motor vehicle drivers' histories, including motor vehicle violations, suspensions, and points on licenses.

SEC. 724. TRAFFICKING IN AUTHENTICATION FEATURES FOR USE IN FALSE IDENTIFICATION DOCUMENTS.

(a) CRIMINAL PENALTY.—Section 1028(a)(8) of title 18, United States Code, is amended by striking ''false authentication features'' and inserting ''false or actual authentication features''.

(b) USE OF FALSE DRIVER'S LICENSE AT AIRPORTS.—

(1) IN GENERAL.—The Secretary shall enter, into the appropriate aviation security screening database, appropriate information regarding any person convicted of using a false driver's license at an airport (as such term is defined in section 40102 of title 49, United States Code).

(2) FALSE DEFINED.—In this subsection, the term ''false'' has the same meaning such term has under section 1028(d) of title 18, United States Code.

SEC. 725. GRANTS TO STATES.

(a) IN GENERAL.—The Secretary may make grants to a State to assist the State in conforming to the minimum standards set forth in this subtitle.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out this subtitle.

SEC. 726. AUTHORITY.

(a) PARTICIPATION OF SECRETARY OF TRANSPORTATION AND STATES.—All authority to issue regulations, set standards, and issue grants under this subtitle shall be carried out by the Secretary, in consultation with the Secretary of Transportation and the States.

(b) COMPLIANCE WITH STANDARDS.—All authority to certify compliance with standards under this subtitle shall be carried out by the Secretary of Transportation, in consultation with the Secretary of Homeland Security and the States.

(c) EXTENSIONS OF DEADLINES.—The Secretary may grant to a State an extension of time to meet the requirements of section 722(a)(1) if the State provides adequate justification for noncompliance.

SEC. 727. REPEAL.

Section 7212 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458) is repealed.

SEC. 728. LIMITATION ON STATUTORY CONSTRUCTION.

Nothing in this subtitle shall be construed to affect the authorities or responsibilities of the Secretary of Transportation or the States under chapter 303 of title 49, United States Code.

Subtitle C—Border Infrastructure and Technology Integration

SEC. 731. VULNERABILITY AND THREAT ASSESSMENT.

(a) STUDY.—The Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Under Secretary of Homeland Security for Science and Technology and the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, shall study the technology, equipment, and personnel needed to address security vulnerabilities within the United States for each field office of the Bureau of Customs and Border Protection that has responsibility for any portion of the United States borders with Canada and Mexico. The Under Secretary shall conduct follow-up studies at least once every 5 years.

(b) REPORT TO CONGRESS.—The Under Secretary shall submit a report to Congress on the Under Secretary's findings and conclusions from each study conducted under subsection (a) together with legislative recommendations, as appropriate, for addressing any security vulnerabilities found by the study.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Homeland Security Directorate of Border and Transportation Security such sums as may be necessary for fiscal years 2006 through 2011 to carry out any such recommendations from the first study conducted under subsection (a).

SEC. 732. USE OF GROUND SURVEILLANCE TECHNOLOGIES FOR BORDER SECURITY.

(a) PILOT PROGRAM.—Not later than 180 days after the date of the enactment of this title, the Under Secretary of Homeland Security for Science and Technology, in consultation with the Under Secretary of Homeland Security for Border and Transportation Security, the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, and the Secretary of Defense, shall develop a pilot program to utilize, or increase the utilization of, ground surveillance technologies to enhance the border security of the United States. In developing the program, the Under Secretary shall—

(1) consider various current and proposed ground surveillance technologies that could be utilized to enhance the border security of the United States;

(2) assess the threats to the border security of the United States that could be addressed by the utilization of such technologies; and

(3) assess the feasibility and advisability of utilizing such technologies to address such threats, including an assessment of the technologies considered best suited to address such threats.

(b) ADDITIONAL REQUIREMENTS.—

(1) IN GENERAL.—The pilot program shall include the utilization of a variety of ground surveillance technologies in a variety of topographies and areas (including both populated and unpopulated areas) on both the northern and southern borders of the United States in order to evaluate, for a range of circumstances—

(A) the significance of previous experiences with such technologies in homeland security or critical infrastructure protection for the utilization of such technologies for border security;

(B) the cost, utility, and effectiveness of such technologies for border security; and

(C) liability, safety, and privacy concerns relating to the utilization of such technologies for border security.

(2) TECHNOLOGIES.—The ground surveillance technologies utilized in the pilot program shall include the following:

(A) Video camera technology.

(B) Sensor technology.

(C) Motion detection technology.

(c) IMPLEMENTATION.—The Under Secretary of Homeland Security for Border and Transportation Security shall implement the pilot program developed under this section.

(d) REPORT.—Not later than 1 year after implementing the pilot program under subsection (a), the Under Secretary shall submit a report on the program to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, the House of Representatives Committee on Homeland Security, and the House of Representatives Committee on the Judiciary. The Under Secretary shall include in the report a description of the program together with such recommendations as the Under Secretary finds appropriate, including recommendations for terminating the program, making the program permanent, or enhancing the program.

SEC. 733. ENHANCEMENT OF COMMUNICATIONS INTEGRATION AND INFORMATION SHARING ON BORDER SECURITY.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this title, the Secretary of Homeland Security, acting through the Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Under Secretary of Homeland Security for Science and Technology, the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, the Assistant Secretary of Commerce for Communications and Information, and other appropriate Federal, State, local, and tribal agencies, shall develop and implement a plan—

(1) to improve the communications systems of the departments and agencies of the Federal Government in order to facilitate the integration of communications among the departments and agencies of the Federal Government and State, local government agencies, and Indian tribal agencies on matters relating to border security; and

(2) to enhance information sharing among the departments and agencies of the Federal Government, State and local government agencies, and Indian tribal agencies on such matters.

(b) REPORT.—Not later than 1 year after implementing the plan under subsection (a), the Secretary shall submit a copy of the plan and a report on the plan, including any recommendations the Secretary finds appropriate, to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, the House of Representatives Committee on Homeland Security, and the House of Representatives Committee on the Judiciary.

SA 430. Mr. BYRD (for himself, Mrs. CLINTON, Mr. LAUTENBERG, Mr. KERRY, Mr. WYDEN, Mr. DORGAN, Mr. HARKIN, and Mr. KENNEDY) proposed an amendment to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ____. None of the funds provided in this Act or any other Act may be used by a Federal agency to produce any prepackaged news story unless the story includes a clear notification to the audience that the story was prepared or funded by that Federal agency.

SA 431. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

FULL UTILIZATION OF INDUSTRIAL CAPACITY FOR REFURBISHMENT AND REPLACEMENT OF TACTICAL WHEELED VEHICLES

SEC. 1122. The Secretary of the Army shall use funds in the Other Procurement, Army account to utilize fully the industrial capacity of the United States, including the capacity of Maine Military Authority, to meet requirements for the refurbishment and replacement of tactical wheeled vehicles in order to facilitate the delivery of up armored tactical vehicles to deployed units of the Armed Forces.

SA 432. Mr. CHAMBLISS (for himself, and Mr. KYL) submitted an amendment intended to be proposed to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 231, between lines 3 and 4, insert the following:

TITLE VII—TEMPORARY AGRICULTURAL WORKERS

SEC. 701. SHORT TITLE.

This title may be cited as the ''Temporary Agricultural Work Reform Act of 2005''.

Subtitle A—Temporary H–2A Workers

SEC. 711. ADMISSION OF TEMPORARY H–2A WORKERS.

Section 218 of the Immigration and Nationality Act (8 U.S.C. 1188) is amended to read as follows:

''ADMISSION OF TEMPORARY H–2A WORKERS

''SEC. 218. (a) APPLICATION.—An alien may not be admitted as an H–2A worker unless the employer has filed with the Secretary of Homeland Security a petition attesting to the following:

''(1) TEMPORARY OR SEASONAL WORK OR SERVICES.—

''(A) IN GENERAL.—The agricultural employment for which the H–2A worker or workers is or are sought is temporary or seasonal, the number of workers sought, and the wage rate and conditions under which they will be employed.

''(B) TEMPORARY OR SEASONAL WORK.—For purposes of subparagraph (A), a worker is employed on a 'temporary' or 'seasonal' basis if the employment is intended not to exceed 10 months.

''(2) BENEFITS, WAGE, AND WORKING CONDITIONS.—The employer will provide, at a minimum, the benefits, wages, and working conditions required by subsection (m) to all workers employed in the jobs for which the H–2A worker or workers is or are sought and to all other temporary workers in the same occupation at the place of employment.

''(3) NONDISPLACEMENT OF UNITED STATES WORKERS.—The employer did not displace and will not displace a United States worker employed by the employer during the period of employment and during a period of 30 days preceding the period of employment in the occupation at the place of employment for which the employer seeks approval to employ H–2A workers.

''(4) RECRUITMENT.—

''(A) IN GENERAL.—The employer shall attest that the employer—

''(i) conducted adequate recruitment in the metropolitan statistical area of intended employment before filing the attestation; and

''(ii) was unsuccessful in locating qualified United States workers for the job opportunity for which the certification is sought.

''(B) RECRUITMENT.—The adequate recruitment requirement under subparagraph (A) is satisfied if the employer—

''(i) places a job order with America's Job Bank Program of the Department of Labor; and

''(ii) places a Sunday advertisement in a newspaper of general circulation or an advertisement in an appropriate trade journal or ethnic publication that is likely to be patronized by a potential worker in the area of intended employment.

''(C) ADVERTISEMENT CRITERIA.—The advertisement requirement under subparagraph (B)(ii) is satisfied if the advertisement—

''(i) names the employer;

''(ii) directs applicants to report or send resumes, as appropriate for the occupation, to the employer;

''(iii) provides a description of the vacancy that is specific enough to apprise United States workers of the job opportunity for which certification is sought;

''(iv) describes the geographic area with enough specificity to apprise applicants of any travel requirements and where applicants will likely have to reside to perform the job;

''(v) states the rate of pay, which must equal or exceed the wage paid for the occupation in the area of intended employment; and

''(vi) offers wages, terms, and conditions of employment, which are at least as favorable as those offered to the alien.

''(5) OFFERS TO UNITED STATES WORKERS.—The employer has offered or will offer the job for which the nonimmigrant is, or the nonimmigrants are, sought to any eligible United States worker who applies and is equally or better qualified for the job and who will be available at the time and place of need.

''(6) PROVISION OF INSURANCE.—If the job for which the nonimmigrant is, or the nonimmigrants are, sought is not covered by State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker's employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

''(7) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

''(8) PREVIOUS VIOLATIONS.—The employer has not, during the previous 5-year period, employed H–2A workers and knowingly violated a material term or condition of approval with respect to the employment of domestic or nonimmigrant workers, as determined by the Secretary of Labor after notice and opportunity for a hearing.

''(b) PUBLICATION.—The employer shall make available for public examination, within 1 working day after the date on which a petition under this section is filed, at the employer's principal place of business or worksite, a copy of each such petition (and such accompanying documents as are necessary).

''(c) LIST.—The Secretary of Labor shall compile, on a current basis, a list (by employer) of the petitions filed under subsection (a). Such list shall include the wage rate, number of aliens sought, period of intended employment, and date of need. The Secretary of Labor shall make such list available for public examination in Washington, District of Columbia.

''(d) SPECIAL RULES FOR CONSIDERATION OF PETITIONS.—The following rules shall apply in the case of the filing and consideration of a petition under subsection (a):

''(1) DEADLINE FOR FILING APPLICATIONS.—The Secretary of Homeland Security may not require that the petition be filed more than 28 days before the first date the employer requires the labor or services of the H–2A worker or workers.

''(2) ISSUANCE OF APPROVAL.—Unless the Secretary of Homeland Security finds that the petition is incomplete or obviously inaccurate, the Secretary of Homeland Security shall provide a decision within 7 days of the date of the filing of the petition.

''(e) ROLES OF AGRICULTURAL ASSOCIATIONS.—

''(1) PERMITTING FILING BY AGRICULTURAL ASSOCIATIONS.—A petition to hire an alien as a temporary agricultural worker may be filed by an association of agricultural producers which use agricultural services.

''(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association is a joint or sole employer of temporary agricultural workers, such workers may be transferred among its producer members to perform agricultural services of a temporary or seasonal nature for which the petition was approved.

''(3) STATEMENT OF LIABILITY.—The application form shall include a clear statement explaining the liability under this section of an employer who places an H–2A worker with another H–2A employer if the other employer displaces a United States worker in violation of the condition described in subsection (a)(7).

''(4) TREATMENT OF VIOLATIONS.—

''(A) MEMBER'S VIOLATION DOES NOT NECESSARILY DISQUALIFY ASSOCIATION OR OTHER MEMBERS.—If an individual producer member of a joint employer association is determined to have committed an act that is in violation of the conditions for approval with respect to the member's petition, the denial shall apply only to that member of the association unless the Secretary of Labor determines that the association or other member participated in, had knowledge of, or had reason to know of the violation.

''(B) ASSOCIATION'S VIOLATION DOES NOT NECESSARILY DISQUALIFY MEMBERS.—

''(i) JOINT EMPLOYER.—If an association representing agricultural producers as a joint employer is determined to have committed an act that is in violation of the conditions for approval with respect to the association's petition, the denial shall apply only to the association and does not apply to any individual producer member of the association, unless the Secretary of Labor determines that the member participated in, had knowledge of, or had reason to know of the violation.

''(ii) SOLE EMPLOYER.—If an association of agricultural producers approved as a sole employer is determined to have committed an act that is in violation of the conditions for approval with respect to the association's petition, no individual producer member of such association may be the beneficiary of the services of temporary alien agricultural workers admitted under this section in the commodity and occupation in which such aliens were employed by the association which was denied approval during the period such denial is in force, unless such producer member employs such aliens in the commodity and occupation in question directly or through an association which is a joint employer of such workers with the producer member.

''(f) EXPEDITED ADMINISTRATIVE APPEALS OF CERTAIN DETERMINATIONS.—Regulations shall provide for an expedited procedure for the review of a denial of approval under this section, or at the applicant's request, for a de novo administrative hearing respecting the denial.

''(g) MISCELLANEOUS PROVISIONS.—

''(1) ENDORSEMENT OF DOCUMENTS.—The Secretary of Homeland Security shall provide for the endorsement of entry and exit documents of nonimmigrants described in section 101(a)(15)(H)(ii)(a) as may be necessary to carry out this section and to provide notice for purposes of section 274A.

''(2) PREEMPTION OF STATE LAWS.—The provisions of subsections (a) and (c) of section 214 and the provisions of this section preempt any State or local law regulating admissibility of nonimmigrant workers.

''(3) FEES.—

''(A) IN GENERAL.—The Secretary of Homeland Security may require, as a condition of approving the petition, the payment of a fee in accordance with subparagraph (B) to recover the reasonable costs of processing petitions.

''(B) AMOUNTS.—

''(i) EMPLOYER.—The fee for each employer that receives a temporary alien agricultural labor certification shall be equal to $100 plus $10 for each job opportunity for H–2A workers certified, provided that the fee to an employer for each temporary alien agricultural labor certification received shall not exceed $1,000.

''(ii) JOINT EMPLOYER ASSOCIATION.—In the case of a joint employer association that receives a temporary alien agricultural labor certification, each employer-member receiving such certification shall pay a fee equal to $100 plus $10 for each job opportunity for H–2A workers certified, provided that the fee to an employer for each temporary alien agricultural labor certification received shall not exceed $1,000. The joint employer association shall not be charged a separate fee.

''(C) PAYMENTS.—The fees collected under this paragraph shall be paid by check or money order made payable to the 'Department of Homeland Security'. In the case of employers of H–2A workers that are members of a joint employer association applying on their behalf, the aggregate fees for all employers of H–2A workers under the petition may be paid by 1 check or money order.

''(D) INFLATION ADJUSTMENT.—In the case of any calendar year beginning after 2005, each dollar amount in subparagraph (B) may be increased by an amount equal to—

''(i) such dollar amount; multiplied by

''(ii) the percentage (if any) by which the average of the Consumer Price Index for all urban consumers (United States city average) for the 12-month period ending with August of the preceding calendar year exceeds such average for the 12-month period ending with August 2004.

''(h) FAILURE TO MEET CONDITIONS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to meet a condition of subsection (a), or a material misrepresentation of fact in a petition under subsection (a)—

''(1) the Secretary of Labor shall notify the Secretary of Homeland Security of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $1,000 per violation) as the Secretary of Labor determines to be appropriate; and

''(2) the Secretary of Homeland Security may disqualify the employer from the employment of H–2A workers for a period of 1 year.

''(i) WILLFUL FAILURES AND WILLFUL MISREPRESENTATIONS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a willful failure to meet a material condition of subsection (a) or a willful misrepresentation of a material fact in a petition under subsection (a)—

''(1) the Secretary of Labor shall notify the Secretary of Homeland Security of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $5,000 per violation) as the Secretary of Labor determines to be appropriate;

''(2) the Secretary of Homeland Security may disqualify the employer from the employment of H–2A workers for a period of 2 years;

''(3) for a second violation, the Secretary of Homeland Security may disqualify the employer from the employment of H-2A workers for a period of 5 years; and

''(4) for a third violation, the Secretary of Homeland Security may permanently disqualify the employer from the employment of H-2A workers.

''(j) DISPLACEMENT OF UNITED STATES WORKERS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a willful failure to meet a material condition of subsection (a) or a willful misrepresentation of a material fact in a petition under subsection (a), in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer during the period of employment on the employer's petition under subsection (a) or during the period of 30 days preceding such period of employment—

''(1) the Secretary of Labor shall notify the Secretary of Homeland Security of such finding and may, in addition, impose such other

administrative remedies (including civil money penalties in an amount not to exceed $15,000 per violation) as the Secretary of Labor determines to be appropriate;

''(2) the Secretary of Homeland Security may disqualify the employer from the employment of H–2A workers for a period of 5 years; and

''(3) for a second violation, the Secretary of Homeland Security may permanently disqualify the employer from the employment of H–2A workers.

''(k) LIMITATIONS ON CIVIL MONEY PENALTIES.—The Secretary of Labor shall not impose total civil money penalties with respect to a petition under subsection (a) in excess of $90,000.

''(l) FAILURES TO PAY WAGES OR REQUIRED BENEFITS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer has failed to pay the wages, or provide the housing allowance, transportation, subsistence reimbursement, or guarantee of employment required under subsection (a)(2), the Secretary of Labor shall assess payment of back wages, or other required benefits, due any United States worker or H–2A worker employed by the employer in the specific employment in question. The back wages or other required benefits under subsection (a)(2) shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

''(m) MINIMUM BENEFITS, WAGES, AND WORKING CONDITIONS.—

''(1) PREFERENTIAL TREATMENT OF ALIENS PROHIBITED.—

''(A) IN GENERAL.—Employers seeking to hire United States workers shall offer the United States workers not less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H–2A workers. Conversely, no job offer may impose on United States workers any restrictions or obligations which will not be imposed on the employer's H–2A workers.

''(B) INTERPRETATIONS AND DETERMINATIONS.—While benefits, wages, and other terms and conditions of employment specified in this subsection are required to be provided in connection with employment under this section, every interpretation and determination made under this Act or under any other law, regulation, or interpretative provision regarding the nature, scope, and timing of the provision of these and any other benefits, wages, and other terms and conditions of employment shall be made in conformance with the governing principles that the services of workers to their employers and the employment opportunities afforded to workers by their employers, including those employment opportunities that require United States workers or H–2A workers to travel or relocate in order to accept or perform employment, mutually benefit such workers, as well as their families, and employers, principally benefitting neither, and that employment opportunities within the United States further benefit the United States economy as a whole and should be encouraged.

''(2) REQUIRED WAGES.—

''(A) An employer applying for workers under subsection (a) shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied for workers, not less than the prevailing wage.

''(B) In complying with subparagraph (A), an employer may request and obtain a prevailing wage determination from the State employment security agency.

''(C) In lieu of the procedure described in subparagraph (B), an employer may rely on other wage information, including a survey of the prevailing wages of workers in the occupation in the area of intended employment that has been conducted or funded by the employer or a group of employers, that meets criteria specified by the Secretary of Labor in regulations.

''(D) An employer who obtains such prevailing wage determination, or who relies on a qualifying survey of prevailing wages, and who pays the wage determined to be prevailing, shall be considered to have complied with the requirement of subparagraph (A).

''(E) No worker shall be paid less than the greater of the prevailing wage or the applicable State minimum wage.

''(3) REQUIREMENT TO PROVIDE HOUSING OR A HOUSING ALLOWANCE.—

''(A) IN GENERAL.—An employer applying for workers under subsection (a) shall offer to provide housing at no cost to all workers in job opportunities for which the employer has applied under that section and to all other workers in the same occupation at the place of employment, whose place of residence is beyond normal commuting distance.

''(B) TYPE OF HOUSING.—In complying with subparagraph (A), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing, or other substantially similar class of habitation, or in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation. In the absence of applicable State or local standards, Federal temporary labor camp standards shall apply.

''(C) CERTIFICATE OF INSPECTION.—Prior to any occupation by a worker in housing described in subparagraph (B), the employer shall submit a certificate of inspection by an approved Federal or State agency to the Secretary of Labor.

''(D) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary of Labor shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

''(E) LIMITATION.—Nothing in this paragraph shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

''(F) HOUSING ALLOWANCE AS ALTERNATIVE.—

''(i) IN GENERAL.—The employer may provide a reasonable housing allowance in lieu of offering housing under subparagraph (A) if the requirement under clause (v) is satisfied.

''(ii) ASSISTANCE TO LOCATE HOUSING.—Upon the request of a worker seeking assistance in locating housing, the employer shall make a good-faith effort to assist the worker in locating housing in the area of intended employment.

''(iii) LIMITATION.—A housing allowance may not be used for housing which is owned or controlled by the employer. An employer who offers a housing allowance to a worker, or assists a worker in locating housing which the worker occupies, pursuant to this clause shall not be deemed a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance.

''(iv) REPORTING REQUIREMENT.—The employer must provide the Secretary of Labor with a list of the names of all workers assisted under this subparagraph and the local address of each such worker.

''(v) CERTIFICATION.—The requirement of this clause is satisfied if the Governor of the State certifies to the Secretary of Labor that there is adequate housing available in the area of intended employment for migrant farm workers, and H–2A workers, who are seeking temporary housing while employed at farm work. Such certification shall expire after 3 years unless renewed by the Governor of the State.

''(vi) AMOUNT OF ALLOWANCE.—

''(I) NONMETROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this subparagraph is a nonmetropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

''(II) METROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this paragraph is in a metropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for metropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

''(G) EXEMPTION.—An employer applying for workers under subsection (a) whose primary job site is located 150 miles or less from the United States border shall not be required to provide housing or a housing allowance.

''(4) REIMBURSEMENT OF TRANSPORTATION.—

''(A) TO PLACE OF EMPLOYMENT.—

''(i) IN GENERAL.—A worker who completes 50 percent of the period of employment of the job opportunity for which the worker was hired, measured from the worker's first day of work in such employment, shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place from which the worker was approved to enter the United States to work for the employer (or place of last employment, if the worker traveled from such place) to the place of employment by the employer.

''(ii) OTHER FEES.—The employer shall not be required to reimburse visa, passport, consular, or international border-crossing fees or any other fees associated with the worker's lawful admission into the United States to perform employment that may be incurred by the worker.

''(iii) TIMELY REIMBURSEMENT.—Reimbursement to the worker of expenses for the cost of the worker's transportation and subsistence to the place of employment shall be considered timely if such reimbursement is made not later than the worker's first regular payday after the worker completes 50 percent of the period of employment of the job opportunity as provided under this paragraph.

''(B) FROM PLACE OF EMPLOYMENT.—A worker who completes the period of employment for the job opportunity involved shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place from which the worker was approved to enter the United States to work for the employer.

''(C) LIMITATION.—

''(i) AMOUNT OF REIMBURSEMENT.—Except as provided in clause (ii), the amount of reimbursement provided under subparagraph (A) or (B) to a worker or alien shall not exceed the lesser of—

''(I) the actual cost to the worker or alien of the transportation and subsistence involved; or

''(II) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

''(ii) DISTANCE TRAVELED.—No reimbursement under subparagraph (A) or (B) shall be required if the distance traveled is 100 miles or less or if the worker is not residing in employer-provided housing or housing secured through an allowance as provided in paragraph (3).

''(D) EARLY TERMINATION.—If the worker is laid off or employment is terminated for contract impossibility (as described in paragraph (5)(D)) before the anticipated ending date of employment, the employer shall provide the transportation and subsistence required by subparagraph (B) and, notwithstanding whether the worker has completed 50 percent of the period of employment, shall provide the transportation reimbursement required by subparagraph (A).

''(E) TRANSPORTATION BETWEEN LIVING QUARTERS AND WORKSITE.—The employer shall provide transportation between the worker's living quarters (such as housing provided by the employer pursuant to paragraph (3), including housing provided through a housing allowance) and the employer's worksite without cost to the worker, and such transportation will be in accordance with applicable laws and regulations.

''(5) GUARANTEE OF EMPLOYMENT.—

''(A) OFFER TO WORKER.—The employer shall guarantee to offer the worker employment for the hourly equivalent of at least 75 percent of the work days of the total period of employment, beginning with the first work day after the arrival of the worker at the place of employment and ending on the expiration date specified in the job offer. For purposes of this subparagraph, the hourly equivalent means the number of hours in the work days as stated in the job offer and shall exclude the worker's Sabbath and Federal holidays. If the employer affords the United States or H–2A worker less employment than that required under this subparagraph, the employer shall pay such worker the amount which the worker would have earned had the worker, in fact, worked for the guaranteed number of hours.

''(B) FAILURE TO WORK.—Any hours which the worker fails to work, up to a maximum of the number of hours specified in the job offer for a work day, when the worker has been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the job offer in a work day, on the worker's Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

''(C) ABANDONMENT OF EMPLOYMENT; TERMINATION FOR CAUSE.—If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, the worker is not entitled to the 75 percent guarantee described in subparagraph (A).

''(D) CONTRACT IMPOSSIBILITY.—If, before the expiration of the period of employment specified in the job offer, the services of the worker are no longer required for reasons beyond the control of the employer due to any form of natural disaster (including a flood, hurricane, freeze, earthquake, fire, or drought), plant or animal disease, pest infestation, or regulatory action, before the employment guarantee in subparagraph (A) is fulfilled, the employer may terminate the worker's employment. In the event of such termination, the employer shall fulfill the employment guarantee in subparagraph (A) for the work days that have elapsed from the first work day after the arrival of the worker to the termination of employment. In such cases, the employer will make efforts to transfer the United States worker to other comparable employment acceptable to the worker.

''(n) PETITIONING FOR ADMISSION.—An employer, or an association acting as an agent or joint employer for its members, that seeks the admission into the United States of an H–2A worker must file a petition with the Secretary of Homeland Security. The petition shall include the attestations for the certification described in section 101(a)(15)(H)(ii)(a).

''(o) EXPEDITED ADJUDICATION BY THE SECRETARY.—The Secretary of Homeland Security—

''(1) shall establish a procedure for expedited adjudication of petitions filed under subsection (n); and

''(2) not later than 7 working days after such filing shall, by fax, cable, or other means assuring expedited delivery transmit a copy of notice of action on the petition—

''(A) to the petitioner; and

''(B) in the case of approved petitions, to the appropriate immigration officer at the port of entry or United States consulate where the petitioner has indicated that the alien beneficiary or beneficiaries will apply for a visa or admission to the United States.

''(p) DISQUALIFICATION.—

''(1) Subject to paragraph (2), an alien shall be considered inadmissible to the United States and ineligible for nonimmigrant status under section 101(a)(15)(H)(ii)(a) if the alien has, at any time during the past 5 years, violated a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission.

''(2) WAIVERS.—

''(A) IN GENERAL.—An alien outside the United States, and seeking admission under section 101(a)(15)(H)(ii)(a), shall not be deemed inadmissible under such section by reason of paragraph (1) or section 212(a)(9)(B) if the previous violation occurred on or before April 1, 2005.

''(B) LIMITATION.—In any case in which an alien is admitted to the United States upon having a ground of inadmissibility waived under subparagraph (A), such waiver shall be considered to remain in effect unless the alien again violates a material provision of this section or otherwise violates a term or condition of admission into the United States as a nonimmigrant, in which case such waiver shall terminate.

''(q) ABANDONMENT OF EMPLOYMENT.—

''(1) IN GENERAL.—An alien admitted or provided status under section 101(a)(15)(H)(ii)(a) who abandons the employment which was the basis for such admission or status shall be considered to have failed to maintain nonimmigrant status as an H–2A worker and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

''(2) REPORT BY EMPLOYER.—The employer (or association acting as agent for the employer) shall notify the Secretary of Homeland Security within 7 days of an H–2A worker's having prematurely abandoned employment.

''(3) REMOVAL BY THE SECRETARY.—The Secretary of Homeland Security shall promptly remove from the United States any H–2A worker who violates any term or condition of the worker's nonimmigrant status.

''(4) VOLUNTARY TERMINATION.—Notwithstanding paragraph (1), an alien may voluntarily terminate his or her employment if the alien promptly departs the United States upon termination of such employment.

''(r) REPLACEMENT OF ALIEN.—

''(1) IN GENERAL.—Upon presentation of the notice to the Secretary of Homeland Security required by subsection (q)(2), the Secretary of State shall promptly issue a visa to, and the Secretary of Homeland Security shall admit into the United States, an eligible alien designated by the employer to replace an H–2A worker who abandons or prematurely terminates employment.

''(2) CONSTRUCTION.—Nothing in this subsection shall limit any preference required to be accorded United States workers under any other provision of this Act.

''(s) IDENTIFICATION DOCUMENT.—

''(1) IN GENERAL.—The Department of Homeland Security shall provide each alien authorized to be admitted under section 101(a)(15)(H)(ii)(a) with a single machine-readable, tamper-resistant, and counterfeit-resistant document that—

''(A) authorizes the alien's entry into the United States; and

''(B) serves, for the appropriate period, as an employment eligibility document.

''(2) REQUIREMENTS.—No identification and employment eligibility document may be issued which does not meet the following requirements:

''(A) The document shall be capable of reliably determining whether—

''(i) the individual with the identification and employment eligibility document whose eligibility is being verified is in fact eligible for employment;

''(ii) the individual whose eligibility is being verified is claiming the identity of another person; and

''(iii) the individual whose eligibility is being verified is authorized to be admitted into, and employed in, the United States as an H–2A worker.

''(B) The document shall—

''(i) be compatible with other databases of the Secretary of Homeland Security for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

''(ii) be compatible with law enforcement databases to determine if the alien has been convicted of criminal offenses.

''(t) EXTENSION OF STAY OF H–2A WORKERS IN THE UNITED STATES.—

''(1) EXTENSION OF STAY.—

''(A) IN GENERAL.—An employer may seek up to 2 10-month extensions under this subsection.

''(B) PETITION.—If an employer seeks to employ an H–2A worker who is lawfully present in the United States, the petition filed by the employer or an association pursuant to subsection (n) shall request an extension of the alien's stay.

''(C) COMMENCEMENT; MAXIMUM PERIOD.—An extension of stay under this subsection—

''(i) may only commence upon the termination of the H–2A worker's contract with an employer; and

''(ii) may not exceed 10 months unless the employer files a written request for up to an additional 30 days accompanied by justification that the need for such additional time is necessitated by adverse weather conditions, acts of God, or economic hardship beyond the control of the employer.

''(D) FUTURE ELIGIBILITY.—At the conclusion of 3 10-month employment periods authorized under this section, the alien so employed may not be employed in the United States as an H–2A worker until the alien has returned to the alien's country of nationality or country of last residence for not less than 6 months.

''(2) WORK AUTHORIZATION UPON FILING PETITION FOR EXTENSION OF STAY.—

''(A) IN GENERAL.—An alien who is lawfully present in the United States may commence or continue the employment described in a petition under paragraph (1) on the date on which the petition is filed. The employer

shall provide a copy of the employer's petition to the alien, who shall keep the petition with the alien's identification and employment eligibility document, as evidence that the petition has been filed and that the alien is authorized to work in the United States.

''(B) APPROVAL.—Upon approval of a petition for an extension of stay or change in the alien's authorized employment, the Secretary of Homeland Security shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the petition.

''(C) DEFINITION.—In this paragraph, the term 'file' means sending the petition by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of receipt of the petition.

''(u) SPECIAL RULE FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOATHERDERS, OR DAIRY WORKERS.—Notwithstanding any other provision of this section, an alien admitted under section 101(a)(15)(H)(ii)(a) for employment as a sheepherder, goatherder, or dairy worker may be admitted for a period of up to 2 years.

''(v) DEFINITIONS.—For purposes of this section:

''(1) AREA OF EMPLOYMENT.—The term 'area of employment' means the area within normal commuting distance of the worksite or physical location where the work of the H–2A worker is or will be performed. If such worksite or location is within a Metropolitan Statistical Area, any place within such area is deemed to be within the area of employment.

''(2) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means, with respect to employment, an individual who is not an unauthorized alien (as defined in section 274A(h)(3)) with respect to that employment.

''(3) DISPLACE.—In the case of a petition with respect to 1 or more H–2A workers by an employer, the employer is considered to 'displace' a United States worker from a job if the employer lays off the worker from a job that is essentially the equivalent of the job for which the H–2A worker or workers is or are sought. A job shall not be considered to be essentially equivalent of another job unless it involves essentially the same responsibilities, was held by a United States worker with substantially equivalent qualifications and experience, and is located in the same area of employment as the other job.

''(4) H–2A WORKER.—The term 'H–2A worker' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).

''(5) LAYS OFF.—

''(A) IN GENERAL.—The term 'lays off', with respect to a worker—

''(i) means to cause the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or the expiration of a grant or contract (other than a temporary employment contract entered into in order to evade a condition described in paragraph (3) or (7) of subsection (a); but

''(ii) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer (or, in the case of a placement of a worker with another employer under subsection (a)(7), with either employer described in such subsection) at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

''(B) CONSTRUCTION.—Nothing in this paragraph is intended to limit an employee's rights under a collective bargaining agreement or other employment contract.

''(6) PREVAILING WAGE.—The term 'prevailing wage' means, with respect to an agricultural occupation in an area of intended employment, the rate of wages that includes the 51st percentile of employees with similar experience and qualifications in the agricultural occupation in the area of intended employment, expressed in terms of the prevailing method of pay for the occupation in the area of intended employment.

''(7) UNITED STATES WORKER.—The term 'United States worker' means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien authorized to work in the relevant job opportunity within the United States, except—

''(A) an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a); and

''(B) an alien provided status under section 220.''.

SEC. 712. LEGAL ASSISTANCE PROVIDED BY THE LEGAL SERVICES CORPORATION.

Section 305 of the Immigrant Reform and Control Act of 1986 (8 U.S.C. 1101 note) is amended—

(1) by striking ''A nonimmigrant'' and inserting the following:

''(a) IN GENERAL.—A nonimmigrant''; and

(2) by adding at the end the following:

''(b) LEGAL ASSISTANCE.—The Legal Services Corporation may not provide legal assistance for or on behalf of any alien, and may not provide financial assistance to any person or entity that provides legal assistance for or on behalf of any alien, unless the alien—

''(1) is present in the United States at the time the legal assistance is provided; and

''(2) is an alien to whom subsection (a) applies.''

''(c) REQUIRED MEDIATION.—No party may bring a civil action for damages on behalf of a nonimmigrant described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) or pursuant to those in the Blue Card Program established under section 220 of such Act, unless at least 90 days before bringing the action a request has been made to the Federal Mediation and Conciliation Service to assist the parties in reaching a satisfactory resolution of all issues involving all parties to the dispute and mediation has been attempted.''.

Subtitle B—Blue Card Status

SEC. 721. BLUE CARD PROGRAM.

(a) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by adding at the end the following:

''BLUE CARD PROGRAM

''SEC. 220. (a) DEFINITIONS.—As used in this section—

''(1) the term 'agricultural employment'—

''(A) means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986; and

''(B) includes any service or activity described in—

''(i) title 37, 37–3011, or 37–3012 (relating to landscaping) of the Department of Labor 2004–2005 Occupational Information Network Handbook;

''(ii) title 45 (relating to farming fishing, and forestry) of such handbook; or

''(iii) title 51, 51–3022, or 51–3023 (relating to meat, poultry, fish processors and packers) of such handbook.

''(2) the term 'blue card status' means the status of an alien who has been—

''(A) lawfully admitted for a temporary period under subsection (b); and

''(B) issued a tamper-resistant, machine-readable document that serves as the alien's visa, employment authorization, and travel documentation and contains such biometrics as are required by the Secretary;

''(3) the term 'employer' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment;

''(4) the term 'Secretary' means the Secretary of Homeland Security;

''(5) the term 'small employer' means an employer employing fewer than 500 employees based upon the average number of employees for each of the pay periods for the preceding 10 calendar months, including the period in which the employer employed H–2A workers; and

''(6) the term 'United States worker' means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien authorized to work in the relevant job opportunity within the United States, except—

''(A) an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a); and

''(B) an alien provided status under this section.

''(b) BLUE CARD PROGRAM.—

''(1) BLUE CARD PROGRAM.—Notwithstanding any other provision of law, the Secretary shall confer blue card status upon an alien who qualifies under this subsection if the Secretary determines that the alien—

''(A) has been in the United States continuously as of April 1, 2005;

''(B) has performed more than 50 percent of total annual weeks worked in agricultural employment in the United States (except in the case of a child provided derivative status as of April 1, 2005);

''(C) is otherwise admissible to the United States under section 212, except as otherwise provided under paragraph (2); and

''(D) is the beneficiary of a petition filed by an employer, as described in paragraph (3).

''(2) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.—In determining an alien's eligibility for blue card status under paragraph (1)(C)—

''(A) the provisions of paragraphs (5), (6)(A), (7)(A), and (9)(B) of section 212(a) shall not apply;

''(B) the provisions of section 212(a)(6)(C) shall not apply with respect to prior or current agricultural employment; and

''(C) the Secretary may not waive paragraph (1), (2), or (3) of section 212(a) unless such waiver is permitted under another provision of law.

''(3) PETITIONS.—

''(A) IN GENERAL.—An employer seeking blue card status under this section for an alien employee shall file a petition for blue card status with the Secretary.

''(B) EMPLOYER PETITION.—An employer filing a petition under subparagraph (A) shall—

''(i) pay a registration fee of—

''(I) $1,000, if the employer employs more than 500 employees; or

''(II) $500, if the employer is a small employer employing 500 or fewer employees;

''(ii) pay a processing fee to cover the actual costs incurred in adjudicating the petition; and

''(iii) attest that the employer conducted adequate recruitment in the metropolitan statistical area of intended employment before filing the attestation and was unsuccessful in locating qualified United States workers for the job opportunity for which

the certification is sought, which attestation shall be valid for a period of 60 days.

''(C) RECRUITMENT.—

''(i) The adequate recruitment requirement under subparagraph (B)(iii) is satisfied if the employer—

''(I) places a job order with America's Job Bank Program of the Department of Labor; and

''(II) places a Sunday advertisement in a newspaper of general circulation or an advertisement in an appropriate trade journal or ethnic publication that is likely to be patronized by a potential worker in the metropolitan statistical area of intended employment.

''(ii) An advertisement under clause (i)(II) shall—

''(I) name the employer;

''(II) direct applicants to report or send resumes, as appropriate for the occupation, to the employer;

''(III) provide a description of the vacancy that is specific enough to apprise United States workers of the job opportunity for which certification is sought;

''(IV) describe the geographic area with enough specificity to apprise applicants of any travel requirements and where applicants will likely have to reside to perform the job;

''(V) state the rate of pay, which must equal or exceed the wage paid for the occupation in the area of intended employment; and

''(VI) offer wages, terms, and conditions of employment, which are at least as favorable as those offered to the alien.

''(D) NOTIFICATION OF DENIAL.—The Secretary shall provide notification of a denial of a petition filed for an alien to the alien and the employer who filed such petition.

''(E) EFFECT OF DENIAL.—If the Secretary denies a petition filed for an alien, such alien shall return to the country of the alien's nationality or last residence outside the United States.

''(4) BLUE CARD STATUS.—

''(A) BLUE CARD.—

''(i) ALL-IN-ONE CARD.—The Secretary, in conjunction with the Secretary of State, shall develop a single machine-readable, tamper-resistant document that—

''(I) authorizes the alien's entry into the United States;

''(II) serves, during the period an alien is in blue card status, as an employment authorized endorsement or other appropriate work permit for agricultural employment only; and

''(III) serves as an entry and exit document to be used in conjunction with a proper visa or as a visa and as other appropriate travel and entry documentation using biometric identifiers that meet the biometric identifier standards jointly established by the Secretary of State and the Secretary.

''(ii) BIOMETRICS.—

''(I) After a petition is filed by an employer and receipt of such petition is confirmed by the Secretary, the alien, in order to further adjudicate the petition, shall submit 2 biometric identifiers, as required by the Secretary, at an Application Support Center.

''(II) The Secretary shall prescribe a process for the submission of a biometric identifier to be incorporated electronically into an employer's prior electronic filing of a petition. The Secretary shall prescribe an alternative process for employers to file a petition in a manner other than electronic filing, as needed.

''(B) DOCUMENT REQUIREMENTS.—The Secretary shall issue a blue card that is—

''(i) capable of reliably determining if the individual with the blue card whose eligibility is being verified is—

''(I) eligible for employment;

''(II) claiming the identify of another person; and

''(III) authorized to be admitted; and

''(ii) compatible with—

''(I) other databases maintained by the Secretary for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

''(II) law enforcement databases to determine if the alien has been convicted of criminal offenses.

''(C) AUTHORIZED TRAVEL.—During the period an alien is in blue card status granted under this section and pursuant to regulations established by the Secretary, the alien may make brief visits outside the United States. An alien may be readmitted to the United States after such a visit without having to obtain a visa if the alien presents the alien's blue card document. Such periods of time spent outside the United States shall not cause the period of blue card status in the United States to be extended.

''(D) PORTABILITY.—

''(i) During the period in which an alien is in blue card status, the alien issued a blue card may accept new employment upon the Secretary's receipt of a petition filed by an employer on behalf of the alien. Employment authorization shall continue for such alien until such petition is adjudicated.

''(ii) If a petition filed under clause (i) is denied and the alien has ceased employment with the previous employer, the authorization under clause (i) shall terminate and the alien shall be required to return to the country of the alien's nationality or last residence.

''(iii) A fee may be required by the Secretary to cover the actual costs incurred in adjudicating a petition under this subparagraph. No other fee may be required under this subparagraph.

''(iv) A petition by an employer under this subparagraph may not be accepted within 90 days after the adjudication of a previous petition on behalf of an alien.

''(E) ANNUAL CHECK IN.—The employer of an alien in blue card status who has been employed for 1 year in blue card status shall confirm the alien's continued employment status with the Secretary electronically or in writing. Such confirmation will not require a further labor attestation.

''(F) TERMINATION OF BLUE CARD STATUS.—

''(i) During the period of blue card status granted an alien, the Secretary may terminate such status upon a determination by the Secretary that the alien is deportable or has become inadmissible.

''(ii) The Secretary may terminate blue card status granted to an alien if—

''(I) the Secretary determines that, without the appropriate waiver, the granting of blue card status was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i));

''(II) the alien is convicted of a felony or a misdemeanor committed in the United States; or

''(III) the Secretary determines that the alien is deportable or inadmissible under any other provision of this Act.

''(5) PERIOD OF AUTHORIZED ADMISSION.—

''(A) IN GENERAL.—The initial period of authorized admission for an alien with blue card status shall be not more than 3 years. The employer of such alien may petition for extensions of such authorized admission for 2 additional periods of not more than 3 years each.

''(B) EXCEPTION.—The limit on renewals shall not apply to a nonimmigrant in a position of full-time, non-temporary employment who has managerial or supervisory responsibilities. The employer of such nonimmigrant shall be required to make an additional attestation to such an employment classification with the filing of a petition.

''(C) REPORTING REQUIREMENT.—If an alien with blue card status ceases to be employed by an employer, such employer shall immediately notify the Secretary of such cessation of employment. The Secretary shall provide electronic means for making such notification.

''(D) LOSS OF EMPLOYMENT.—

''(i) An alien's blue card status shall terminate if the alien is unemployed for 60 or more consecutive days.

''(ii) An alien whose period of authorized admission terminates under clause (i) shall be required to return to the country of the alien's nationality or last residence.

''(6) GROUNDS FOR INELIGIBILITY.—

''(A) BAR TO FUTURE VISAS FOR CONDITION VIOLATIONS.—Any alien having blue card status shall not again be eligible for the same blue card status if the alien violates any term or condition of such status.

''(B) ALIENS UNLAWFULLY PRESENT.—Any alien who enters the United States after April 1, 2005, without being admitted or paroled shall be ineligible for blue card status.

''(C) ALIENS IN H–2A STATUS.—Any alien in lawful H–2A status as of April 1, 2005, shall be ineligible for blue card status.

''(7) BAR ON CHANGE OR ADJUSTMENT OF STATUS.—

''(A) IN GENERAL.—An alien having blue card status shall not be eligible to change or adjust status in the United States or obtain a different nonimmigrant or immigrant visa from a United States Embassy or consulate.

''(B) LOSS OF ELIGIBILITY.—An alien having blue card status shall lose eligibility for such status if the alien—

''(i) files a petition to adjust status to legal permanent residence in the United States; or

''(ii) requests a consular processing for an immigrant visa outside the United States.

''(C) EXCEPTION.—An alien having blue card status may not adjust status to legal permanent resident status or obtain another nonimmigrant or immigrant status unless—

''(i)(I) the alien renounces his or her blue card status by providing written notification to the Secretary of Homeland Security or the Secretary of State; or

''(II) the alien's blue card status otherwise expires; and

''(ii) the alien has resided and been physically present in the alien's country of nationality or last residence for not less than 1 year after leaving the United States and the renouncement or expiration of blue card status.

''(8) JUDICIAL REVIEW.—There shall be no judicial review of a denial of blue card status.

''(c) SAFE HARBOR.—

''(1) SAFE HARBOR OF ALIEN.—An alien for whom a nonfrivolous petition is filed under this section—

''(A) shall be granted employment authorization pending final adjudication of the petition;

''(B) may not be detained, determined inadmissible or deportable, or removed pending final adjudication of the petition for change in status, unless the alien commits an act which renders the alien ineligible for such change of status; and

''(C) may not be considered an unauthorized alien as defined in section 274A(h)(3) until such time as the petition for status is adjudicated.

''(2) SAFE HARBOR FOR EMPLOYER.—An employer that files a petition for blue card status for an alien shall not be subject to civil and criminal tax liability relating directly to the employment of such alien. An employer that provides unauthorized aliens with copies of employment records or other

evidence of employment pursuant to the petition shall not be subject to civil and criminal liability pursuant to section 274A for employing such unauthorized aliens.

''(d) TREATMENT OF SPOUSES AND CHILDREN.—

''(1) SPOUSES.—A spouse of an alien having blue card status shall not be eligible for derivative status by accompanying or following to join the alien. Such a spouse may obtain status based only on an independent petition filed by an employer petitioning under subsection (b)(3) with respect to the employment of the spouse.

''(2) CHILDREN.—A child of an alien having blue card status shall not be eligible for the same temporary status unless—

''(A) the child is accompanying or following to join the alien; and

''(B) the alien is the sole custodial parent of the child or both custodial parents of the child have obtained such status.''.

(b) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 219 the following:

''Sec. 220. Blue card program.''.

SEC. 722. PENALTIES FOR FALSE STATEMENTS.

Section 1546 of title 18, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

''(c) Any person, including the alien who is the beneficiary of a petition, who—

''(1) files a petition under section 220(b)(3) of the Immigration and Nationality Act; and

''(2)(A) knowingly and willfully falsifies, conceals, or covers up a material fact related to such a petition;

''(B) makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry related to such a petition; or

''(C) creates or supplies a false writing or document for use in making such a petition, shall be fined in accordance with this title, imprisoned not more than 5 years, or both.''.

SEC. 723. SECURING THE BORDERS.

Not later than 6 months after the date of enactment of this Act, the Secretary of Homeland Security shall submit to Congress a comprehensive plan for securing the borders of the United States.

SEC. 724. EFFECTIVE DATE.

This subtitle shall take effect on the date that is 6 months after the date of enactment of this Act.

SA 433. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

SEC. . SETTLEMENT OF CLAIMS.—It is the sense of the Congress that the United States should—

(a) reach a settlement agreement with the Republic of Iraq providing for fair and full compensation of any unresolved claim of any United States national who was victimized by acts of terrorism committed by the former Iraqi regime, including hostage-taking and torture committed during the period between the Iraqi invasion of Kuwait on August 2, 1990 and the conclusion of the First Persian Gulf War on February 25, 1991; and

(b) seek compensation from responsible parties for any United States civilian who has been victimized by acts of terror committee in response to U.S. foreign and military policy in Iraq since March 21, 2003.

SA 434. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

DIVERSITY LOTTERY VISAS

SEC. 6047. (a) Section 204(a)(1)(I)(ii) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(I)(ii)) is amended by striking subclause (II) and inserting the following:

''(II) An alien who qualifies, through random selection, for a visa under section 203(c) or adjustment of status under section 245(a) shall remain eligible to receive such visa beyond the end of the specific fiscal year for which the alien was selected if the alien—

''(aa) properly applied for such visa or adjustment of status during the fiscal year for which alien was selected; and

''(bb) was notified by the Secretary of State, through the publication of the Visa Bulletin, that the application was authorized.''.

(b)(1) Notwithstanding any other provision of law, a visa shall be available under section 203(c) of the Immigration and Nationality Act (8 U.S.C. 1153(c)) if—

(A) such alien was eligible for and properly applied for an adjustment of status during a fiscal year between 1998 and 2004;

(B) the application submitted by such alien was denied because personnel of the Department of Homeland Security or the Immigration and Naturalization Service failed to adjudicate such application during the fiscal year in which such application was filed;

(C) such alien moves to reopen such adjustment of status applications pursuant to procedures or instructions provided by the Secretary of Homeland Security or the Secretary of State; and

(D) such alien has continuously resided in the United States since the date of submitting such application.

(2) A visa made available under paragraph (1) may not be counted toward the numerical maximum for the worldwide level of set out in section 201(e) of the Immigration and Nationality Act (8 U.S.C. 1151(e)).

(c) The amendment made by subsection (a) shall take effect on October 1, 2005.

SA 435. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 375 submitted by Mr. CRAIG) for himself and Mr. KENNEDY) and intended to be proposed to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 6, line 12, strike ''(e)(2)'' and all that follows through line 18, and insert the following: ''(e)(2); or

''(II) is convicted of a felony or misdemeanor committed in the United States.''.

On page 16, line 2, strike ''(e)(2)'' and all that follows through line 8, and insert the following: ''(e)(2); or

''(II) is convicted of a felony or misdemeanor committed in the United States.''.

On page 18, line 16, strike ''(e)(2)'' and all that follows through line 22, and insert the following: ''(e)(2); or

''(ii) is convicted of a felony or misdemeanor committed in the United States.''.

SA 436. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 13, strike line 5 and all that follows through page 14, line 23, and insert the following:

(i) QUALIFYING EMPLOYMENT.—The alien has performed at least 5 years of agricultural employment in the United States, for at least 575 hours or 100 work days per year, during the 6-year period beginning on the date of enactment of this Act.

(ii) APPLICATION PERIOD.—The alien applies for adjustment of status not later than 7 years after the date of enactment of this Act.

(iii) PROOF.—In meeting the requirements under clause (i), an alien may submit the record of employment described in subsection (a)(5) or such documentation as may be submitted under subsection (d)(3).

(iv) DISABILITY.—In determining whether an alien has met the requirements under clause (i), the Secretary shall credit the alien with any work days lost because the alien was unable to work in agricultural employment due to injury or disease arising out of and in the course of the alien's agricultural employment, if the alien can establish such disabling injury or disease through medical records.

SA 437. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for

State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, after line 6, add the following:

SEC. 6047. SENSE OF SENATE ON SELECT COMMITTEE ON INTELLIGENCE OF THE SENATE INVESTIGATION INTO PRISONER DETENTION, INTERROGATION, AND RENDITION POLICIES AND PRACTICES OF THE UNITED STATES GOVERNMENT.

(a) SENSE OF SENATE.—

(1) IN GENERAL.—It is the sense of the Senate that the Select Committee on Intelligence of the Senate should conduct an investigation into, and study of, all matters relating to the authorities, policies, and practices of the departments, agencies, and other entities of the United States Government on the detention, interrogation, or rendition of prisoners for intelligence purposes (other than for purely domestic law enforcement purposes), whether by such departments, agencies, or entities themselves or in conjunction with any foreign government or entity.

(2) ELEMENTS.—The investigation and study under paragraph (1) should address and consider—

(A) the history of the authorities, policies, and practices of the United States Government on the detention, interrogation, or rendition of prisoners for intelligence purposes before September 11, 2001, including—

(i) a review of any presidential or other authorities, and other written guidance, before that date on the detention, interrogation, or rendition of prisoners;

(ii) a review of any experience before that date with the detention, interrogation, or rendition of prisoners; and

(iii) an assessment of the legality and efficacy of the practices before that date with respect to the detention, interrogation, and rendition of prisoners;

(B) all presidential and other authorities since September 11, 2001, on the detention, interrogation, or rendition of prisoners for intelligence purposes;

(C) all legal opinions and memoranda of any official or component of the Department of Justice since September 11, 2001 on the authorities, polices, or practices of the United States Government with respect to the detention, interrogation, or rendition of prisoners for intelligence purposes;

(D) all legal opinions and memoranda of any official or component of any other department, agency, or entity of the United States Government since September 11, 2001 on authorities, policies, or practices with respect to the detention, interrogation, or rendition of prisoners for intelligence purposes;

(E) all investigations and reviews conducted since September 11, 2001 by any department, agency, or entity of the United States Government, or by any nongovernmental organization, on the authorities, policies, and practices of the United States Government with respect to the detention, interrogation, or rendition of prisoners for intelligence purposes;

(F) all facts concerning the actual detention, interrogation, or rendition of prisoners for intelligence purposes by any department, agency, or other entity of the United States Government since September 11, 2001;

(G) all facts concerning the knowledge of any department, agency, or other entity of the United States Government of the detention and interrogation methods of any foreign government or entity to which persons detained by the departments, agencies, or other entities of the United States Government have been rendered;

(H) case studies and evaluations of the detention, interrogation, or rendition of persons, including any methods used and the reliability of the information obtained;

(I) all rules, practices, plans, and actual experiences on the use of classified information in military tribunals, commissions, or other proceedings on the detention, continued detention, or military trials of detainees;

(J) all plans for the long-term detention, or for prosecution by civilian courts or military tribunals or commissions, of persons detained by any department, agency, or other entity of the United States Government or of persons who have been rendered by the United States Government to any foreign government or entity; and

(K) any other matters that the Select Committee on Intelligence of the Senate considers appropriate for the investigation and study.

(b) REPORT.—

(1) IN GENERAL.—The Select Committee on Intelligence of the Senate should submit to the Senate, not later than six months after the date of the enactment of this Act, a report on the investigation and study under subsection (b).

(2) ELEMENTS.—The report under paragraph (1) should include—

(A) such findings as the Select Committee on Intelligence considers appropriate in light of the investigation and study under that paragraph; and

(B) such recommendations, including recommendations for legislative or administrative action, as the Select Committee on Intelligence considers appropriate in light of the investigation and study.

(3) FORM.—The report under paragraph (1) should be submitted in unclassified form, but may include a classified annex.

SA. 438. Mr. COCHRAN (for Mr. SPECTER) proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 220, line 12, strike ''Section 101'' and insert ''Section 102'' in lieu thereof.

SA 439. Mr. CRAIG (for himself and Mr. AKAKA) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. TRAUMATIC INJURY PROTECTION.

(a) IN GENERAL.—Subchapter III of chapter 19, Title 38, United States Code, is amended—

(1) in section 1965, by adding at the end the following:

''(11) The term 'activities of daily living' means the inability to independently perform 2 of the 6 following functions:

''(A) Bathing.

''(B) Continence.

''(C) Dressing.

''(D) Eating.

''(E) Toileting.

''(F) Transferring.''; and

(2) by adding at the end the following:

''§ 1980A. Traumatic injury protection

''(a) A member who is insured under subparagraph (A)(i), (B), or (C)(i) of section 1967(a)(1) shall automatically be issued a traumatic injury protection rider that will provide for a payment not to exceed $100,000 if the member, while so insured, sustains a traumatic injury that results in a loss described in subsection (b)(1). The maximum amount payable for all injuries resulting from the same traumatic event shall be limited to $100,000. If a member suffers more than 1 such loss as a result of traumatic injury, payment will be made in accordance with the schedule in subsection (d) for the single loss providing the highest payment.

''(b)(1) A member who is issued a traumatic injury protection rider under subsection (a) is insured against—

''(A) total and permanent loss of sight;

''(B) loss of a hand or foot by severance at or above the wrist or ankle;

''(C) total and permanent loss of speech;

''(D) total and permanent loss of hearing in both ears;

''(E) loss of thumb and index finger of the same hand by severance at or above the metacarpophalangeal joints;

''(F) quadriplegia, paraplegia, or hemiplegia;

''(G) burns greater than second degree, covering 30 percent of the body or 30 percent of the face; and

''(H) coma or the inability to carry out the activities of daily living resulting from traumatic injury to the brain.

''(2) For purposes of this subsection—

''(A) the term 'quadriplegia' means the complete and irreversible paralysis of all 4 limbs;

''(B) the term 'paraplegia' means the complete and irreversible paralysis of both lower limbs; and

''(C) the term 'hemiplegia' means the complete and irreversible paralysis of the upper and lower limbs on 1 side of the body.

''(3) In no case will a member be covered against loss resulting from—

''(A) attempted suicide, while sane or insane;

''(B) an intentionally self-inflicted injury or any attempt to inflict such an injury;

''(C) illness, whether the loss results directly or indirectly;

''(D) medical or surgical treatment of illness, whether the loss results directly or indirectly;

''(E) any infection other than—

''(i) a pyogenic infection resulting from a cut or wound; or

''(ii) a bacterial infection resulting from ingestion of a contaminated substance;

''(F) the commission of or attempt to commit a felony;

''(G) being legally intoxicated or under the influence of any narcotic unless administered or consumed on the advice of a physician; or

''(H) willful misconduct as determined by a military court, civilian court, or administrative body.

''(c) A payment under this section may be made only if—

''(1) the member is insured under Servicemembers' Group Life Insurance when the traumatic injury is sustained;

''(2) the loss results directly from that traumatic injury and from no other cause; and

''(3) the member suffers the loss not later than 90 days after sustaining the traumatic injury, except, if the loss is quadriplegia, paraplegia, or hemiplegia, the member suffers the loss not later than 365 days after sustaining the traumatic injury.

''(d) Payments under this section for losses described in subsection (b)(1) will be made in accordance with the following schedule:

''(1) Loss of both hands, $100,000.

''(2) Loss of both feet, $100,000.

''(3) Inability to carry out activities of daily living resulting from traumatic brain injury, $100,000.

''(4) Burns greater than second degree, covering 30 percent of the body or 30 percent of the face, $100,000.

''(5) Loss of sight in both eyes, $100,000.

''(6) Loss of 1 hand and 1 foot, $100,000.

''(7) Loss of 1 hand and sight of 1 eye, $100,000.

''(8) Loss of 1 foot and sight of 1 eye, $100,000.

''(9) Loss of speech and hearing in 1 ear, $100,000.

''(10) Total and permanent loss of hearing in both ears, $100,000.

''(11) Quadriplegia, $100,000.

''(12) Paraplegia, $75,000.

''(13) Loss of 1 hand, $50,000.

''(14) Loss of 1 foot, $50,000.

''(15) Loss of sight one eye, $50,000.

''(16) Total and permanent loss of speech, $50,000.

''(17) Loss of hearing in 1 ear, $50,000.

''(18) Hemiplegia, $50,000.

''(19) Loss of thumb and index finger of the same hand, $25,000.

''(20) Coma resulting from traumatic brain injury, $50,000 at time of claim and $50,000 at end of 6-month period.

''(e)(1) During any period in which a member is insured under this section and the member is on active duty, there shall be deducted each month from the member's basic or other pay until separation or release from active duty an amount determined by the Secretary of Veterans Affairs as the premium allocable to the pay period for providing traumatic injury protection under this section (which shall be the same for all such members) as the share of the cost attributable to provided coverage under this section, less any costs traceable to the extra hazards of such duty in the uniformed services.

''(2) During any month in which a member is assigned to the Ready Reserve of a uniformed service under conditions which meet the qualifications set forth in section 1965(5)(B) of this title and is insured under a policy of insurance purchased by the Secretary of Veterans Affairs under section 1966 of this title, there shall be contributed from the appropriation made for active duty pay of the uniformed service concerned an amount determined by the Secretary of Veterans Affairs (which shall be the same for all such members) as the share of the cost attributable to provided coverage under this section, less any costs traceable to the extra hazards of such duty in the uniformed services. Any amounts so contributed on behalf of any member shall be collected by the Secretary of the concerned service from such member (by deduction from pay or otherwise) and shall be credited to the appropriation from which such contribution was made in advance on a monthly basis.

''(3) The Secretary of Veterans Affairs shall determine the premium amounts to be charged for traumatic injury protection coverage provided under this section.

''(4) The premium amounts shall be determined on the basis of sound actuarial principles and shall include an amount necessary to cover the administrative costs to the insurer or insurers providing such insurance.

''(5) Each premium rate for the first policy year shall be continued for subsequent policy years, except that the rate may be adjusted for any such subsequent policy year on the basis of the experience under the policy, as determined by the Secretary of Veterans Affairs in advance of that policy year.

''(6) The cost attributable to insuring such member under this section, less the premiums deducted from the pay of the member's uniformed service, shall be paid by the Secretary of Defense to the Secretary of Veterans Affairs. This amount shall be paid on a monthly basis, and shall be due within 10 days of the notice provided by the Secretary of Veterans Affairs to the Secretary of the concerned uniformed service.

''(7) The Secretary of Defense shall provide the amount of appropriations required to pay expected claims in a policy year, as determined according to sound actuarial principles by the Secretary of Veterans Affairs.

''(8) The Secretary of Defense shall forward an amount to the Secretary of Veterans Affairs that is equivalent to half the anticipated cost of claims for the current fiscal year, upon the effective date of this legislation.

''(f) The Secretary of Defense shall certify whether any member claiming the benefit under this section is eligible.

''(g) Payment for a loss resulting from traumatic injury will not be made if the member dies not more than 7 days after the date of the injury. If the member dies before payment to the member can be made, the payment will be made according to the member's most current beneficiary designation under Servicemembers' Group Life Insurance, or a by law designation, if applicable.

''(h) Coverage for loss resulting from traumatic injury provided under this section shall cease at midnight on the date of the member's separation from the uniformed service. Payment will not be made for any loss resulting from injury incurred after the date a member is separated from the uniformed services.

''(i) Insurance coverage provided under this section is not convertible to Veterans' Group Life Insurance.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 19 of title 38, United States Code, is amended by adding after the item relating to section 1980 the following:

''1980A. Traumatic injury protection. ''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month beginning more than 120 days after the date of enactment of this Act.

SA 440. Mr. BIDEN (for himself, Mr. BINGAMAN, and Mr. CARPER) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

FORCE PROTECTION WORK AND MEDICAL CARE AT VACCINE HEALTH CARE CENTERS

SEC. 1122. (a) INCREASE IN AMOUNT FOR DEFENSE HEALTH PROGRAM.—The amount appropriated by this chapter under the heading ''DEFENSE HEALTH PROGRAM'' is hereby increased by $6,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount appropriated or otherwise made available by this chapter under the heading ''DEFENSE HEALTH PROGRAM'', as increased by subsection (a), $6,000,000 shall be available for force protection work and medical care at the Vaccine Health Care Centers.

(c) OFFSET.—The amount appropriated by chapter 2 of this title under the heading ''GLOBAL WAR ON TERROR PARTNERS FUND'' is hereby reduced by $6,000,000.

SA 441. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

SEC. 6047. Notwithstanding any other provision of law, funds that have been appropriated to and awarded by the Secretary of Energy under the Clean Coal Power Initiative in accordance with financial assistance solicitation number DE-PS26-02NT41428 (as described in 67 Fed. Reg. 575) to construct a Fischer-Tropsch coal-to-oil project may be used by the Secretary to provide a loan guarantee for the project.

SA 442. Mr. REED (for himself, Ms. SNOWE, Mr. KENNEDY, Mr. CHAFEE, and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 204, between lines 4 and 5, insert the following:

CHAPTER 5

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for ''Operations, Research and Facilities'', $1,000,000, to remain available until expended, for the National Marine Fisheries Service to establish a cooperative research program to study the

causes of lobster disease and the decline in the lobster fishery in New England waters: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

SA 443. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, after line 3, insert the following:

AFFIRMING THE PROHIBITION ON TORTURE AND CRUEL, INHUMAN, OR DEGRADING TREATMENT

SEC. 6047. (a)(1) None of the funds appropriated or otherwise made available by this Act shall be obligated or expended to subject any person in the custody or under the physical control of the United States to torture or cruel, inhuman, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of the United States.

(2) Nothing in this section shall affect the status of any person under the Geneva Conventions or whether any person is entitled to the protections of the Geneva Conventions.

(b) As used in this section—

(1) the term ''torture'' has the meaning given that term in section 2340(1) of title 18, United States Code; and

(2) the term ''cruel, inhuman, or degrading treatment or punishment'' means the cruel, unusual, and inhumane treatment or punishment prohibited by the fifth amendment, eighth amendment, or fourteenth amendment to the Constitution of the United States.

SA 444. Mrs. BOXER (for herself and Mr. BINGAMAN) submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

DEPLOYMENT OF WARLOCK SYSTEMS AND OTHER FIELD JAMMING SYSTEMS

SEC. 1122. (a) ADDITIONAL AMOUNT FOR OTHER PROCUREMENT, ARMY.—The amount appropriated by this chapter under the heading ''OTHER PROCUREMENT, ARMY'' is hereby increased by $35,000,000, with the amount of such increase designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(b) AVAILABILITY OF FUNDS.—Of the amount appropriated or otherwise made available by this chapter under the heading ''OTHER PROCUREMENT, ARMY'', as increased by subsection (a), $60,000,000 shall be available under the Tactical Intelligence and Related Activities (TIARA) program to facilitate the rapid deployment of Warlock systems and other field jamming systems.

SA 445. Mr. REID proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 183, after line 23, add the following new section:

INTERNATIONAL EFFORTS FOR RECONSTRUCTION IN IRAQ

SEC. 2105. (a) Congress makes the following findings:

(1) The United States Armed Forces have borne the largest share of the burden for securing and stabilizing Iraq. Since the war's start, more than 500,000 United States military personnel have served in Iraq and, as of the date of the enactment of this Act, more than 130,000 such personnel are stationed in Iraq. Though the Department of Defense has kept statistics related to international troop contributions classified, it is estimated that all of the coalition partners combined have maintained a total force level in Iraq of only 25,000 troops since early 2003.

(2) United States taxpayers have borne the vast majority of the financial costs of securing and reconstructing Iraq. Prior to the date of the enactment of this Act, the United States appropriated more than $175,000,000,000 for military and reconstruction efforts in Iraq and, including the funds appropriated in this Act, the amount appropriated for such purposes increases to a total of more than $250,000,000,000.

(3) Of such total, Congress appropriated $2,475,000,000 in the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 559) (referred to in this section as ''Public Law 108–11'') and $18,439,000,000 in the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1209) (referred to in this section as ''Public Law 108–106'') under the heading ''IRAQ RELIEF AND RECONSTRUCTION FUND'' for humanitarian assistance and to carry out reconstruction and rehabilitation in Iraq.

(4) The Sixth Quarterly Report required by section 2207 of Public Law 108–106 (22 U.S.C. 2151 note), submitted by the Secretary of State in April 2005, stated that $12,038,000,000 of the $18,439,000,000 appropriated by Public Law 108–106 under the heading ''IRAQ RELIEF AND RECONSTRUCTION FUND'' had been obligated and that only $4,209,000,000, less than 25 percent of the total amount appropriated, had actually been spent.

(5) According to such report, the international community pledged more than $13,500,000,000 in foreign assistance to Iraq in the form of grants, loans, credits, and other assistance. While the report did not specify how much of the assistance is intended to be provided as loans, it is estimated that loans constitute as much as 80 percent of contributions pledged by other nations. The report further notes that, as of the date of the enactment of this Act, the international community has contributed only $2,700,000,000 out of the total pledged amount, falling far short of its commitments.

(6) Iraq has the second largest endowment of oil in the world and experts believe Iraq has the capacity to generate $30,000,000,000 to $40,000,000,000 per year in revenues from its oil industry. Prior to the launch of United States operations in Iraq, members of the Administration stated that profits from Iraq's oil industry would provide a substantial portion of the funds needed for the reconstruction and relief of Iraq and United Nations Security Council Resolution 1483 (2003) permitted the coalition to use oil reserves to finance long-term reconstruction projects in Iraq.

(7) Securing and rebuilding Iraq benefits the people of Iraq, the United States, and the world and all nations should do their fair share to achieve that outcome.

(b) Notwithstanding any other provision of law, not more than 50 percent of the previously appropriated Iraqi reconstruction funds that have not been obligated or expended prior to the date of the enactment of this Act may be obligated or expended, as the case may be, for Iraq reconstruction programs unless—

(1) the President certifies to Congress that all countries that pledged financial assistance at the Madrid International Conference on Reconstruction in Iraq or in other fora since March 2003, for the relief and reconstruction of Iraq, including grant aid, credits, and in-kind contributions, have fulfilled their commitments; or

(2) the President—

(A) certifies to Congress that the President or his representatives have made credible and good faith efforts to persuade other countries that made pledges of financial assistance at the Madrid International Conference on Reconstruction in Iraq or in other fora to fulfill their commitments;

(B) determines that, notwithstanding the efforts by United States troops and taxpayers on behalf of the people of Iraq and the failure of other countries to fulfill their commitments, revenues generated from the sale of Iraqi oil or other sources of revenue under the control of the Government of Iraq may not be used to reimburse the Government of the United States for the obligation and expenditure of a significant portion of the remaining previously appropriated Iraqi reconstruction funds;

(C) determines that, notwithstanding the failure of other countries to fulfill their commitments as described in subparagraph (A) and that revenues generated from the sale of Iraqi oil or other sources of revenue under the control of the government of Iraq shall not be used to reimburse the United States government as described in subparagraph (B), the obligation and expenditure of remaining previously appropriated Iraqi reconstruction funds is in the national security interests of the United States; and

(D) submits to Congress a written notification of the determinations made under this paragraph, including a detailed justification for such determinations, and a description of the actions undertaken by the President or other official of the United States to convince other countries to fulfill their commitments described in subparagraph (A).

(c) This section may not be superseded, modified, or repealed except pursuant to a provision of law that makes specific reference to this section.

(d) In this section:

(1) The term ''previously appropriated Iraqi reconstruction funds'' means the aggregate amount appropriated or otherwise made available in chapter 2 of title II of Public Law 108–106 under the heading ''IRAQ RELIEF AND RECONSTRUCTION FUND'' or under title I of Public Law 108–11 under the heading ''IRAQ RELIEF AND RECONSTRUCTION FUND''.

(2)(A) The term ''Iraq reconstruction programs'' means programs to address the infrastructure needs of Iraq, including infrastructure relating to electricity, oil production, public works, water resources, transportation and telecommunications, housing and construction, health care, and private sector development.

(B) The term does not include programs to fund military activities (including the establishment of national security forces or the Commanders' Emergency Response Programs), public safety (including border enforcement, police, fire, and customs), and justice and civil society development.

SA 446. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

SEC. 6047. Section 908(b)(1)(A) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (22 U.S.C. 7207(b)(1)(A)) is amended by inserting before the period at the end the following: '', which in this subsection means the payment by the purchaser of an agricultural commodity or product and the receipt of the payment by the seller prior to—

''(i) the transfer of title of the commodity or product to the purchaser; and

''(ii) the release of control of the commodity or product to the purchaser.''.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. CHAMBLISS. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a hearing to consider the nomination of Thomas Dorr to be Under Secretary of Agriculture for Rural Development and to be a Member of the Board of Directors of the Commodity Credit Corporation. The hearing will be held on Wednesday, April 27, 2005, at 10:30 a.m. in SR–328A Russell Senate Office Building. Senator SAXBY CHAMBLISS will preside.

For further information, please contact the Committee at 224–2035.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. LOTT. Mr. President, I wish to announce that the Joint Committee on Printing will meet on Thursday, April 21, 2005, at 2 p.m. to conduct its organization meeting for the 109th Congress.

For further information regarding this hearing, please contact Susan Wells at the Rules and Administration Committee on 224–6352.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on April 14, 2005, at 9:30 a.m., in open session to receive testimony on implementation by the Department of Defense of the National Security Personnel System.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on April 14, 2005, at 10 a.m., to conduct a hearing on ''The Terrorism Risk Insurance Program.''

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on pending Committee business, on Thursday, April 14, 2005, at 10 a.m.

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

COMMITTEE ON FINANCE

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Thursday, April 14, 2005, at 10 a.m., to hear testimony on ''The $350 Billion Question: How To Solve the Tax Gap.''

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to hold a hearing during the session of the Senate on Thursday, April 14, 2005, at 10 a.m., in SD–430.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Thursday, April 14, 2005, at 2 p.m., for a hearing title: ''U.S. Postal Service: What Is Needed To Ensure Its Future Viability?''

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

COMMITTEE ON THE JUDICIARY

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, April 14, 2005 at 9:30 a.m. in Senate Dirksen Office Building Room 226.

AGENDA:

I. Nominations: Thomas B. Griffith to be U.S. Circuit Judge for the District of Columbia Circuit; Terrence W. Boyle, II to be U.S. Circuit Judge for the Fourth Circuit; Priscilla R. Owen to be U.S. Circuit Judge for the Fifth Circuit; Janice Rogers Brown to be U.S. Circuit Judge for the District of Columbia Circuit; Robert J. Conrad, Jr. to be U.S. District Judge for the Western District of North Carolina; and James C. Dever, III to be U.S. Circuit Judge for the Eastern District of North Carolina.

II. Bills: S. 378, Reducing Crime and Terrorism at America's Seaports Act of 2005: BIDEN, SPECTER, FEINSTEIN, KYL, CORNYN; S. 119, Unaccompanied Alien Child Protection Act of 2005: FEINSTEIN, SCHUMER, DURBIN, DEWINE, FEINGOLD, KENNEDY, BROWNBACK, SPECTER, LEAHY; S. 629, Railroad Carriers and Mass Transportation Act of 2005: SESSIONS, KYL; and S. 555, No oil Producing and Exporting Cartels Act of 2005: DEWINE, KOHL, LEAHY, GRASSLEY, FEINGOLD, SCHUMER, DURBIN.

III. Matters: Asbestos

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 14, 2005, a 10 a.m. to hold a hearing.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 14, 2005, at 2 p.m. to hold a closed briefing.

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

SUBCOMMITTEE ON AIRLAND

Mr. COCHRAN, Mr. President, I ask unanimous consent that the subcommittee on Airland be authorized to meet during the session of the Senate on April 14, 2005, at 2:30 p.m., in open session to receive testimony on Air Force Acquisition oversight in review of the defense authorization request for fiscal year 2006.

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

SUBCOMMITTEE ON IMMIGRATION, BORDER SECURITY AND CITIZENSHIP SUBCOMMITTEE ON TERRORISM, TECHNOLOGY AND HOMELAND SECURITY

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary and the Committee Subcommittee on Immigration, Border Security and Citizenship and the Subcommittee on Terrorism, Technology and Homeland Security be authorized to meet to conduct a joint

hearing on ''Strengthening Interior Enforcement: Deportation and Related Issues'' on Thursday, April 14, 2005 in Dirksen room 226 at 2:30 p.m.

Panel I: Jonathan Cohn, Deputy Assistant Attorney General for the Civil Division, U.S. Department of Justice, Washington, DC and Victor Cerda, Acting Director of Detention and Removal, U.S. Department of Homeland Security, Washington, DC.

Panel II: David Venturella, U.S. Investigations Service, Washington, DC and Lee Gelernt, Senior Staff Counsel, Immigrant's Rights Project, American Civil Liberties Union, Washington, DC.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE AND THE DISTRICT OF COLUMBIA

Mr. COCHRAN. Mr. President, I ask unanimous consent that the subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia be authorized to meet on Thursday, April 14, at 10 a.m. for a hearing entitled, ''Passing the Buck: A Review of the Unfunded Mandates Reform Act.''

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

PRIVILEGE OF THE FLOOR

Mr. BROWNBACK. Mr. President, I ask unanimous consent Jennifer Pollom, a detailee on the Senate Budget Committee staff, be granted the privilege of the floor during consideration of H.R. 1268.

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

ROBERT T. MATSUI UNITED STATES COURTHOUSE

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 787 which was received from the House.

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

The assistant legislative clerk read as follows:

A bill (H.R. 787) to designate the United States courthouse located at 501 I Street, Sacramento, California, as the ''Robert T. Matsui United States Courthouse''.

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

Mr. FRIST. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

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

The bill (H.R. 787) was read the third time and passed.

COMMENDING THE UNIVERSITY OF OKLAHOMA SOONERS MEN'S GYMNASTICS TEAM

COMMENDING OKLAHOMA STATE UNIVERSITY'S WRESTLING TEAM

Mr. FRIST. Madam President, I ask unanimous consent that the Senate now proceed to the en bloc consideration of S. Res. 109 and S. Res. 110, which were submitted earlier today.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolutions by title en bloc.

The assistant legislative clerk read as follows:

A resolution (S. Res. 109) commending the University of Oklahoma Sooners men's gymnastics team for winning the National Collegiate Athletic Association Division I Men's Gymnastics Championship.

A resolution (S. Res. 110) commending Oklahoma State University's wrestling team for winning the 2005 National Collegiate Athletic Association Division I Wrestling Championship.

There being no objection, the Senate proceeded to consider the resolutions en bloc.

S. RES. 109

Mr. INHOFE. Madam President, I rise today to recognize the University of Oklahoma Sooners men's gymnastics team for winning the 2005 NCAA Division I men's gymnastics championship on April 8, 2005 at West Point, NY. This historic achievement is an enormous source of pride for the university that they represent as well as for the people of my entire State.

This championship achieved by the Sooners, under the outstanding leadership of NCAA Coach of the Year Mark Williams, is OU's sixth overall national title and their third in the past 4 years. It was undoubtedly an accomplishment that they earned and grittily sweated out.

The Sooners' dramatic victory over second-place Ohio State came down to the wire with the competition narrowly being determined by the final rotation on the vault. Freshman Jonathan Horton delivered a heroic performance, which secured OU's winning score of 225.675 over the Buckeyes' 225.450.

The tremendous success of the 2005 Sooners gives support to the Sports Illustrated cover's designation of Oklahoma as ''America's Gymnastics Hotbed'' that notably included the International Gymnastics Hall of Fame, the Bart Conner Gymnastics Academy, Nadia Comaneci, Shannon Miller, and the world's largest gymnastics magazine, International Gymnast.

In addition to the national championship, the Sooners boasted six team members who attained a total of 13 All-America honors for OU at the individual event finals. The 13 honors of 2005 added to an already substantial collection of 141 honors garnered by the university over the 39 years of the men's gymnastics program's existence. Moreover, senior David Henderson's 2005 NCAA title on the still rings, gave OU its 18th all-time individual national champion, capping off a brilliant 4 years for this extraordinary young man.

The Sooners' victory is a product of the heart, determination, and teamwork of these exceptional student athletes, and I extend my heart-felt congratulations to the entire team for a job truly well done and well deserved.

S. RES. 110

Mr. INHOFE. Madam. President, I also rise today to extend my congratulations to the Oklahoma State University's wrestling team for winning the 2005 National Collegiate Athletic Association's Division I Wrestling Championship on March 19, 2005, at St. Louis, MO.

The Cowboys' historic victory this year contributes to an already exceptional legacy of achievement that makes the OSU wrestling program a touchstone for all others. In fact, the Collegiate Wrestling Hall of Fame is at OSU.

The 2005 Championship title is the 33rd overall title in the storied history of wrestling at OSU, and also represents the most possessed by any school in the history of Division I wrestling. Moreover, this year's win marks the Cowboys' third consecutive championship under the dynasty of Coach John Smith, an accomplishment that had not occurred at OSU since the 1954 to 1956 seasons.

Indeed, the Cowboys' dominance was in full display not only during the season in which they went undefeated but also in the finals where they continued to remain perfect. The Cowboys swept all five of its matches and clinched the national championship, getting titles from Steve Mocco, Zack Esposito, Johny Hendricks, Chris Pendleton, and Jake Rosholt and tying the record of five championships set by Iowa in 1997. In all, OSU finished with an all-time high of 153 points and far surpassed second-place Michigan by 70 points, which was the second highest winning margin in NCAA wrestling history.

Much credit for this amazing achievement undoubtedly goes to coach John Smith, who was named Big 12 Wrestling Coach of the Year for the sixth time in his career. Finally I would be remiss, if I did not recognize the extraordinary effort, commitment, and grit of these student athletes. They are a tremendous source of pride for their university and community, and I offer them my sincere congratulations for all that they have achieved.

Mr. FRIST. Madam President, I ask unanimous consent that the resolutions be agreed to, the preambles be agreed to, and the motions to reconsider be laid upon the table, all en bloc.

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

The resolution (S. Res. 109) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 109

Whereas on April 8, 2005, the University of Oklahoma Sooners won their sixth National Collegiate Athletic Association (NCAA) Division I Men's Gymnastics Championship, at West Point, New York;

Whereas the 2005 NCAA Championship is the Sooners' third championship in the past 4 years;

Whereas the championship title crowned a remarkable season for the Sooners in which the team achieved an impressive record of 21 wins and only 2 losses;

Whereas the Sooners clinched a spectacular, nail-biting victory over the Ohio State Buckeyes, which was made possible by a heroic final performance on the vault by freshman Jonathan Horton;

Whereas the Sooners' winning score of 225.675 set a school record and dramatically surpassed second-place Ohio State's score of 225.450;

Whereas 6 members of the University of Oklahoma men's gymnastics team, including Taqiy Abdullah-Simmons, Josh Gore, David Henderson, Jamie Henderson, Jonathan Horton, and Jacob Messina, also garnered a school-record 13 All-America honors in the individual event finals;

Whereas senior David Henderson's 2005 NCAA title on the still rings gave the University of Oklahoma its 18th all-time individual national champion and capped off an exceptional 4 years;

Whereas Head Coach Mark Williams was named the 2005 NCAA Coach of the Year, making it the third time in his distinguished career that Head Coach Williams has received that honor;

Whereas the tremendous success of the 2005 Sooners adds to the outstanding legacy of men's gymnastics at the University of Oklahoma and is a reflection of the heart and dedication of the entire school, from the president to the athletic directors, coaches, athletes, managers, and staff members;

Whereas the teamwork, grit, and sportsmanship demonstrated by the University of Oklahoma Sooners men's gymnastics team is a proud tribute to the university and the communities from which the team members hail: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the University of Oklahoma Sooners for their sixth National Collegiate Athletic Association Division I Men's Gymnastics Championship;

(2) recognizes all who have contributed their hard work and support to making the 2005 season a historic success; and

(3) directs the Secretary of the Senate to transmit a copy of this resolution to University of Oklahoma President David L. Boren and Head Coach Mark Williams for appropriate display.

The resolution (S. Res. 110) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 110

Whereas on March 19, 2005, the Oklahoma State University Cowboys claimed their 33rd National Collegiate Athletic Association Wrestling Championship in St. Louis, Missouri;

Whereas the 33 wrestling championships won by the Cowboys is more than have been won by any other school in the history of National Collegiate Athletic Association Division I wrestling;

Whereas the Cowboys now have won 3 consecutive wrestling championships, a feat not accomplished since they won the national wrestling championship in 1954, 1955, and 1956;

Whereas the Cowboys' 2005 championship topped off an impressive season in which they were undefeated in the regular season and also had a perfect record in the finals;

Whereas the Cowboys outscored second place Michigan, 153 to 83, achieving a margin of victory that was the second-highest in National Collegiate Athletic Association wrestling history;

Whereas the Cowboys crowned a school-record 5 individual national champions, tying a national tournament record;

Whereas the Cowboys' outstanding 2005 season contributed to an already rich and proud tradition of wrestling excellence at Oklahoma State University;

Whereas the amazing accomplishments of the past year reflect the dedication, commitment, and tireless effort of the entire school, from the president to the athletic directors, coaches, athletes, managers, and staff members; and

Whereas the student athletes of the Oklahoma State University wrestling team, through their exceptional athletic achievements, have not only brought credit to themselves but to their fellow students, their university, and their community: Now, therefore be it

Resolved, That the Senate—

(1) commends the Oklahoma State Cowboys for their third straight National Collegiate Athletic Association Division I Wrestling Championship;

(2) recognizes the players, coaches, staff, and all who have made the historic successes of the 2005 season possible; and

(3) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to Oklahoma State University President Dr. David J. Schmidly and Coach John Smith for appropriate display.

NATIONAL MONTH OF THE MILITARY CHILD

Mr. FRIST. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 27, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 27) honoring military children during ''National Month of the Military Child.''

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. Madam President, I ask unanimous consent that the concurrent resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, without intervening action or debate.

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

The concurrent resolution (S. Con. Res. 27) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 27

Whereas more than a million Americans are demonstrating their courage and commitment to freedom by serving in the Armed Forces of the United States;

Whereas nearly 40 percent of the members of the Armed Forces, when deployed away from their permanent duty stations, have left families with children behind;

Whereas no one feels the effect of those deployments more than the children of deployed service members;

Whereas as of March 31, 2005, approximately 1,000 of these children have lost a parent serving in the Armed Forces during the preceding 5 years;

Whereas the daily struggles and personal sacrifices of children of members of the Armed Forces too often go unnoticed;

Whereas the children of members of the Armed Forces are a source of pride and honor to all Americans and it is fitting that the Nation recognize their contributions and celebrate their spirit;

Whereas the ''National Month of the Military Child'', observed in April each year, recognizes military children for their sacrifices and contributes to demonstrating the Nation's unconditional support to members of the Armed Forces;

Whereas in addition to Department of Defense programs to support military families and military children, a variety of programs and campaigns have been established in the private sector to honor, support, and thank military children by fostering awareness and appreciation for the sacrifices and the challenges they face;

Whereas a month-long salute to military children will encourage support for those organizations and campaigns established to provide direct support for military children and families

Resolved by the Senate (the House of Representatives concurring), That the Senate—

(1) joins the Secretary of Defense in honoring the children of members of the Armed Forces and recognizes that they too share in the burden of protecting the Nation;

(2) urges Americans to join with the military community in observing the ''National Month of the Military Child'' with appropriate ceremonies and activities that honor, support, and thank military children; and

(3) recognizes with great appreciation the contributions made by private-sector organizations that provide resources and assistance to military families and the communities that support them.

ORDERS FOR FRIDAY, APRIL 15, 2005

Mr. FRIST. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Friday, April 15. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then resume consideration of H.R. 1268, the Iraq-Afghanistan supplemental appropriations bill.

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

PROGRAM

Mr. FRIST. Madam President, tomorrow, the Senate will resume consideration of the Iraq-Afghanistan supplemental. Although no rollcall votes will occur tomorrow, we hope to make additional progress on the bill. We expect to lock in some of the pending amendments for votes on Monday, and therefore Senators can expect a series of

votes to occur Monday evening. It is my intention to complete action on this bill early next week, and Members should not wait until the last minute to offer their amendments.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:20 p.m., adjourned until Friday, April 15, 2005, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate April 14, 2005:

DEPARTMENT OF TRANSPORTATION

PHYLLIS F. SCHEINBERG, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF TRANSPORTATION, VICE LINDA MORRISON COMBS.

DEPARTMENT OF ENERGY

DAVID R. HILL, OF MISSOURI, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF ENERGY, VICE LEE SARAH LIBERMAN OTIS, RESIGNED.

DEPARTMENT OF STATE

CRAIG ROBERTS STAPLETON, OF CONNECTICUT, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO FRANCE.

EDUARDO AGUIRRE, JR., OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO SPAIN, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ANDORRA.

EMIL A. SKODON, OF ILLINOIS, 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 BRUNEI DARUSSALAM.

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:

To be general

LT. GEN. MICHAEL V. HAYDEN

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. JOHN C. INGLIS, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. MICHAEL R. EYRE, 0000

To be brigadier general

COL. JIMMY E. FOWLER, 0000
COL. SANFORD E. HOLMAN, 0000
COL. DAVID A. MORRIS, 0000
COL. WILLIAM D. WAFF, 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 admiral

VICE ADM. HENRY G. ULRICH III, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY VETERINARY CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

LISA M. AMOROSO, 0000
JANICE L. BAKER, 0000
STEVEN A. BATY, 0000
JENNIFER J. BECK, 0000
KELLY C. BROOKS, 0000
AMMON W. BROWN, 0000
PATTY H. CHEN, 0000
WILLIAM CULP, 0000
CHRISTINE A. EGE, 0000
REBECCA I. EVANS, 0000
SARAH B. HINDS, 0000
JENNIFER M. KISHIMORI, 0000
THOMAS KOHLER, 0000
WENDY E. MEY, 0000
KRINON D. MOCCIA, 0000
MARY A. PARHAM, 0000
SANDI K. PARRIOTT, 0000
GERALD R. SARGENT, 0000
LARRY J. SHELTON, JR., 0000
CHAD A. WEDDELL, 0000
WILLIAM L. WILKINS, 0000
SAMUEL L. YINGST, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SPECIALIST CORPS AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 624, 531, AND 3064:

To be major

STEVEN B. * ANDERSON, 0000
BRUCE J. BEECHER, 0000
RICHARD E. * BETT, 0000
JANETTA R. * BLACKMORE, 0000
MICHAEL E. * BOOTH, 0000
SEAN F. * BRAY, 0000
KENNETH S. * BROOKS, 0000
ASMA S. * BUKHARI, 0000
STUART M. * CAMPBELL, 0000
STACIE M. CASWELL, 0000
SHON D. * COMPTON, 0000
GAIL A. * DREITZLER, 0000
DOUGLAS I. * DUSENBERRY, 0000
MICHAEL D. * DYCHES, 0000
KERRY W. * EBERHARD, 0000
FREDERICK E. * FOLTZ, 0000
STEVEN S. GAY, 0000
MARK J. * GESLAK, 0000
DONALD L. * GOSS, 0000
LEONARD Q. * GRUPPO, JR., 0000
PAUL V. * JACOBSON, 0000
JERRY L. * JOHNSTON, 0000
BRIAN W. * JOVAG, 0000
CHAD A. * KOENIG, 0000
KOHJI K. * KURE, 0000
CHRISTOPHER M. * LECCESE, 0000
BETH E. * MASON, 0000
DOUGLAS J. * MCKNIGHT, 0000
ELIZABETH L. * NORTH, 0000
JESSE K. * ORTEL, 0000
CORDES L. * PRYOR, 0000
MICHAEL A. * ROBERTSON, 0000
PAMELA A. * ROOF, 0000
PAUL * SANDERS, 0000
JAMES T. * SCHUMACHER, JR., 0000
PATRICK A. * SHERMAN, 0000
DONALD G. SHIPMAN, 0000
RANDALL R. * SITZ, 0000
TERRY L. * SMITH, 0000
DALE A. * SPENCE, 0000
RANDY B. THOMAS, 0000
ROBERT M. * TOMSETT, 0000
COLIN S. * TURNNIDGE, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SERVICE CORPS AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 624, 531, AND 3064

To be major

CHRISTOPHER B. * ACKERMAN, 0000
GINA E. * ADAM, 0000
KAYS * ALALI, 0000
MATTHEW J. * ALLEN, 0000
DWIGHT A. * ARMBRUST, 0000
HUGH H. BAILEY, 0000
MARIA Y. * BATES, 0000
BRADLEY M. BEAUVAIS, 0000
BRENDON * BLUESTEIN, 0000
DAVID M. * BOWEN, 0000
DEVVON L. * BRADLEY, 0000
EDWARD L. * BRYAN, JR., 0000
DAVID S. * BRYANT, 0000
GABRIELLE N. * BRYEN, 0000
CRAIG W. * BUKOWSKI, 0000
MARC BUSTAMANTE, 0000
DAVID E. * CABRERA, 0000
TIMOTHY K. * CARROLL, 0000
YVONNE * CEPERO, 0000
CHARLES D. * CLARK, 0000
JAMES D. CLAY, 0000
CARLOS E. CORREDOR, 0000
SCOTT A. * CRAIL, 0000
JOSEPHINE E. * CREEL, 0000
JUSTIN C. * CURRY, 0000
LUCCA J. * DALLE, 0000
RUSSELL A. DEVRIES, 0000
JACOB J. * DLUGOSZ, 0000
JOHN R. DOELLER, 0000
MICHAEL J. * DOLAN, 0000
RANDY D. * DORSEY, 0000
JACQUELINE L. * DURANT, 0000
JOSEPH P. EDGER, 0000
JONATHAN A. EDWARDS, 0000
MARVIN A. * EMERSON, 0000
ROBERT A. ERICKSON, 0000
BRIAN P. * EVANS, 0000
ARTHUR * FINCH III, 0000
CRAIG D. GEHRELS, 0000
JONATHAN L. * GOODE, 0000
JOHN B. GOODRICH, 0000
RICHARD E. * GREMILLION, 0000
TARA L. HALL, 0000
CINTHYA A. * HAMMER, 0000
KEVIN A. * HANNAH, 0000
ALFONSO A. * HARO III, 0000
BRIAN A. HAUG, 0000
CLAUDIA L. * HENEMYREHARRIS, 0000
SAMANTHA S. * HINCHMAN, 0000
JIMMY D. HUMPHRIES, 0000
GREGORY A. * HUTCHESON, 0000
MARION A. JEFFERSON, 0000
KENNETH D. JONES II, 0000
SHELLEY C. * JORGENSEN, 0000
MARK D. * KELLOGG, 0000
ERIC J. * KELLY, 0000
VEDA F. * KENNEDY, 0000
WILLIAM D. * KILLGORE, 0000
PHILIP C. * KNIGHTSHEEN, 0000
KENNETH M. KOYLE, 0000
KRIS E. * KRATZ, 0000
JON R. LASELL, 0000
MICHAEL D. * LAWSON, 0000
LEE J. * LEFKOWITZ, 0000
WALTER G. * LEKITES IV, 0000
STEPHEN J. * LETTRICH, 0000
EDWARD F. MANDRIL, 0000
MONIQUE G. * MCCOY, 0000
MICHAEL S. MCFADDEN, 0000
DARREN D. MCWHIRT, 0000
ANTHONY A. * MEADOR, 0000
VICTOR * MELENDEZ, JR., 0000
ERIC G. * MIDBOE, 0000
CHRISTOPHER J. MOORE, 0000
DANIEL J. MOORE, 0000
MARK K. * MORRIS, 0000
DAVID J. * MULLER, 0000
NEIL I. NELSON, 0000
SCOTT J. * NEWBERG, 0000
MICHAEL T. OLEARY, 0000
CHARLES H. * ONEAL, 0000
SEAN S. * ONEIL, 0000
DAVID E. * PARKER, 0000
STEVEN L. * PATTERSON, 0000
CHRISTOPHER G. * PETERSON, 0000
DAVID J. PHILLIPS, 0000
CHRISTOPHER D. * PITCHER, 0000
STEPHAN C. * PORTER, 0000
THOMAS W. * PORTER, 0000
MARK A. * POTTER, 0000
BRYAN K. * PREER, 0000
SUEANN O. * RAMSEY, 0000
MARTIN B. * ROBINETTE, 0000
SCOTT D. * ROLLSTON, 0000
FRANCISCO A. ROMERO III, 0000
BARRY W. * RYLE, 0000
WENDY L. * SAMMONS, 0000
ANTHONY L. * SCHUSTER, 0000
JASON D. * SCHWARTZ, 0000
ANDREW L. * SCOTT, 0000
JASON R. SEPANIC, 0000
ROBERT W. * SHARPES, 0000
LUKE J. * SHATTUCK, 0000
STEPHEN W. * SMITH, 0000
GARY * STAPOLSKY, 0000
SUSANNA J. * STEGGLES, 0000
MELBA * STETZ, 0000
DOUGLAS L. STRATTON, 0000
KEITH E. * STRETCHKO, 0000
THOMAS E. * STROHMEYER, 0000
JEFFREY L. * THOMAS, 0000
LEONA R. TOLLE, 0000
EVANS D. * TRAMMEL, JR., 0000
CLIFTON B. * TROUT, 0000
KELLY L. * TURNER, 0000
WILLIAM N. * UPTERGROVE, 0000
RAYMOND * VAZQUEZ, 0000
ROY L. VERNON, JR., 0000
ERIC T. WALLIS, 0000
MICHAEL J. * WALTER, 0000
CHARLENE L. * WARRENDAVIS, 0000
KIRK W. WEBB, 0000
EDWARD J. WEINBERG, 0000
KENNEY H. * WELLS, 0000
LILLIAN A. WESTFIELD, 0000
RONALD J. * WHALEN, 0000
VERNON W. * WHEELER, 0000
DUVEL W. WHITE, 0000
DAVID J. * ZAJAC, 0000
CHARLES D. ZIMMERMAN, JR., 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY NURSE CORPS AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 624, 531, AND 3064:

To be major

HERMAN A. ALLISON, 0000
ROBERT R. * ARNOLD, 0000
PACITA G. * ATKINSON, 0000
ERIKA J. * AYERS, 0000
JENNIFER M. * BANNON, 0000
DENISE M. BEAUMONT, 0000
KIRK C. * BIEBER, 0000
AVA M. BIVENS, 0000
CHRISTIE L. BROWN, 0000
PEGGY A. * BRYANT, 0000
JAMES D. * BURK, 0000
KATE E. * CARR, 0000
SHEILA D. * CASTEEL, 0000
EUGENE J. CHRISTEN III, 0000
MELINDA L. * CHURCH, 0000
SHERMAN D. CLAGG, 0000
GILBERT A. * CLAPPER, 0000
MARY L. * CONDELUCI, 0000

AMY L. * COOPERSMITH, 0000
JENNIFER L. * COYNER, 0000
WARREN T. CUSICK, 0000
JULIE A. * DARGIS, 0000
ROBERT S. DAVIS, 0000
JUANITA * DEJESUSMARTINEZ, 0000
DANNY R. DENKINS, 0000
LAURIE D. * DESANTIS, 0000
CHRISTOPHER B. * DOMER, 0000
DAVID G. * DOTY, 0000
COREY L. * EICHELBERGER, 0000
AARON R. ELLIOTT, 0000
MICHAEL T. ENDRES, 0000
DAVID S. FARLEY, 0000
DAVID C. * FAZEKAS, 0000
MONNICA D. * FELIX, 0000
JESUS FLORES, 0000
JULIE J. * FREEMAN, 0000
KATHERINE E. FROST, 0000
JANA N. GAINOK, 0000
SUSAN R. * GARTUNG, 0000
SUSAN E. * GILBERT, 0000
JANET A. * GLENN, 0000
JOHN D. * GORDON, 0000
STEVEN L. * GRAHAM, 0000
PASCALE L. * GUIRAND, 0000
TYKISE L. * HAIRSTON, 0000
GREGORY W. * HANN, 0000
ANTHONY J. * HARKIN, 0000
PATRICK C. * HARTLEY, 0000
SHELLEY A. * HASKINS, 0000
ROBERT L. * HERROLD, 0000
WILFRED D. * HINZE, 0000
JAMES R. HUNLEY, JR., 0000
BRADLEY G. HUTTON, 0000
MICHELLE J. JARRELL, 0000
CONSTANCE L. JENKINS, 0000
CHERYL L. * JONES, 0000
BARBARA W. * KANE, 0000
JR R. * KENT, 0000
STEVEN A. * KINDLE, 0000
ROBERT N. LADD, 0000
ELAINE M. * LADICH, 0000
BRIAN M. * LENZMEIER, 0000
ANTHONY G. * LEONARD, 0000
JEFF L. LOGAN, 0000
CHERYL D. * LOVE, 0000
EDWIN S. * MANIULIT, 0000
CHERYLL A. * MARCHALK, 0000
FRED D. * MARCUM, 0000
DANIEL R. * MATTSON, 0000
TAMMY K. MAYER, 0000
ALAN E. * MEEKINS, 0000
JOHN J. * MELVIN, 0000
ZENON * MERCADO III, 0000
VINCENT R. * MILLER, 0000
CHERYL R. * MONTGOMERY, 0000
ANGELO D. MOORE, 0000
RICHARD T. * MORTON, JR., 0000
JANA L. NOHRENBERG, 0000
JOSE M. * NUNEZ, 0000
RONALD R. * OLIVER, 0000
OMER * OZGUC, 0000
KEITH C. * PALM, 0000
BRENT J. PERSONS, 0000
UN Y. * RAINEY, 0000
VINA A. RAJSKI, 0000
JANE E. * RALPH, 0000
TARA C. * REAVEY, 0000
BARBARA A. * REILLY, 0000
JAMES E. * RIGOT, 0000
CHRISTOPHER M. RIVERA, 0000
FELECIA M. RIVERS, 0000
ANDREA L. ROBERTS, 0000
RICCI R. * ROBISON, 0000
DOUGLAS W. ROGERS, 0000
ERICSON B. * ROSCA, 0000
MARGUERITE A. ROSSIELLO, 0000
SONYA I. ROWE, 0000
EDITHA D. RUIZ, 0000
EDWARD RUIZ, JR., 0000
JAY C. * SCHUSTER, 0000
TOMAS * SERNA, 0000
BROCK M. * SMITH, 0000
TARA O. * SPEARS, 0000
ANN M. * STARR, 0000
JOHN C. STICH, 0000
ROBERT D. SWINFORD, 0000
KELLY L. * TAYLOR, 0000
JAMIE S. THOMAS, 0000
MICHAEL K. * THOMAS, 0000
TROY R. THOMPSON, 0000
CHARLES E. TRUDO, 0000
CYBIL A. * TRUE, 0000
JESSICA T. * TRUEBLOOD, 0000
CHRISTIANE H. TURLINGTON, 0000
DENNIS R. * TURNER, 0000
ADAM W. * VANEK, 0000
MARY J. * VERNON, 0000
JOHN W. * VINING, 0000
ELIZABETH P. VINSON, 0000
KRISTEN L. * VONDRUSKA, 0000
MARVETTA WALKER, 0000
MIKO Y. * WATKINS, 0000
THOMAS K. WEICHART, 0000
CHRISTOPHER P. * WEIDLICH, 0000
BRIAN K. * WEISGRAM, 0000
RHONDA G. * WHITFIELD, 0000
RYAN J. WILCOX, 0000
JENNIFER L. WILEY, 0000
VAUGHN C. * WILHITE, 0000
ANGELA R. WILLIAMS, 0000
FAYE H. * WILSON, 0000
JOE C. WILSON, 0000
MERYIA D. WINDISCH, 0000
HEATHER L. ZUNIGA, 0000

EXTENSIONS OF REMARKS

IN RECOGNITION OF MR. WILLIAM SCHMIDT

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. HASTERT. Mr. Speaker, I would like to congratulate Mr. William Schmidt, the Village President of Hampshire, Illinois, on his more than 40 years of service and devotion to the Village and its residents. After arriving in Hampshire in 1945, Mr. Schmidt taught history at Hampshire High School for 23 years. His commitment to his students and to the community's young people is evident in his enduring relationships with many of these individuals.

Bill Schmidt began his public service in 1980 as a Village Board member. He was subsequently elected to a 4-year term as Village Trustee in 1981. First elected as Village President in 1985, Mr. Schmidt was then elected to four additional successive terms, serving a total of 20 years as Village President.

During his tenure, Bill worked to ensure a diversified tax base for the Village by expanding the Village's boundaries to include the I–90 and U.S. 20 interchange, securing more than $7 million in public investment that leveraged nearly $100 million in private investment, and securing new businesses that created more than 750 new jobs.

Bill and his late wife, Dorothy, have helped to position Hampshire for a successful future by building on the community's history, values and respect for each of its citizens. I would like to extend my thanks to Bill Schmidt for his many years of service and dedication to the people of Hampshire, Illinois. The Village of Hampshire is certainly fortunate to have benefited from his talent and expertise for so many years.

HONORING JOHANNA CLARK

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. GERLACH. Mr. Speaker, I rise today to honor Johanna Clark, the Boyertown Outstanding Student of the Year.

Johanna Clark is that special kind of student who not only excels in her academic work at school, but one who enthusiastically participates in all sorts of extracurricular activities. Johanna is seen by many in such a positive light that she is commonly described as caring, effervescent, intelligent, and responsible.

Johanna has said that she lives to help other people and make them happy. This is clearly evident through the work she is involved in. She is a member of the Boyertown High School Key Club, Student Council, ''Insight,'' the high school cable television talk show, the Boyertown Holiday House tour, peer mediation, and the meth hotline mentoring program. Johanna diligently provides support for others while consistently demonstrating a strong work ethic.

Johanna's academic achievement is quite impressive, with a current grade point average of 4.01. She has taken honors English courses since her freshman year and she began taking both honors social studies and science as a sophomore. As a senior, she has added to her impressive academic schedule by taking AP environmental science. And Johanna has been a member of the National Honor Society since her junior year.

Johanna has future plans to attend Millersville University where she will major in early childhood education, elementary education, and she then plans to get her certification in English as a Second Language. Johanna has expressed interest in teaching second grade upon graduation. As a high school student, she has already gained considerable experience working as a Sunday school teaching assistant at St. John's Lutheran Church in Boyertown for many years. At St. John's, Johanna also assists with the youth group, serves as an acolyte, and helps out in the nursery.

Johanna is the daughter of Jenny and Fitzhugh Clark and is the third of four children. Johanna's family life has served as a source of inspiration for her by instilling her with lasting values and an extraordinary work ethic. She stated how grateful she was to have people in her life who have inspired her, and in particular, her grandmother, Jeanne Dill. Johanna says that ''she is the most honest and giving person I know. I have worked so hard over the years to be like her as best as I could and to make her proud . . . because of her, in a big way, I am who I am today.''

Mr. Speaker, I ask that my colleagues join me today in honoring this tremendous young lady. Johanna Clark is an inspiration to all through her hard work and community service. It is an honor to stand before you to recognize and congratulate Johanna on her many impressive accomplishments and to wish her the very best of luck in the future.

HONORING THE CONTRIBUTIONS OF JUSTICE OF THE PEACE BETH SMITH

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to recognize the distinguished public service of Hays County Justice of the Peace Beth Smith.

Beth Smith attended Austin Community College and Southwest Texas State University, studying Criminal Justice. She has set an example for other law enforcement professionals by continuously updating her educational credentials, working as a Campus Manager for Austin Community College and substitute teaching for the Hays County Independent School District. She was elected as the First Mayor of Mountain City in 1984, and served in that capacity for 14 years.

Judge Smith has been tremendously active in the community. She is a member of the Board of Directors of the Hays Caldwell Council on Alcohol and Drug Abuse, and the President of the Gang Response Intervention Program. She has held the position of Associate Municipal Judge for the City of Kyle, and is President of Hays County Rural Fire District #5.

Ms. Smith is married to her husband Everett, and has three children. She was first elected to office in 1999, and represents Precinct 2 on the County Justice Court. She has been especially zealous protecting the well-being of Hays County youth, and has been consistently involved with intervention programs to help those most at risk.

Justice of the Peace Beth Smith is a tremendous resource for her community, both as a volunteer and a public official. She has served her neighbors with distinction, and I am honored to have the chance to recognize her here today.

REGARDING CLEAN CRUISE SHIP ACT OF 2005

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. FARR. Mr. Speaker many Americans enjoy taking cruises, in large part because they get to see some of the nation's most beautiful marine ecosystems. Because I want to see these beautiful marine ecosystems protected for future generations to enjoy, I am introducing The Clean Cruise Ship Act of 2005.

The Cruise Ship Industry has experienced much success over the past few years. In fact, the industry has grown an average of 10 percent per year over the past 8 years, including an almost 17 percent increase in 2000. Unfortunately, as it grows, its potential to negatively affect the marine environment grows as well. Over a week's time, a single 3,000 passenger cruise ship, according to EPA and industry data, generates a tremendous amount of waste: Over 200,000 gallons of black water (raw sewage) are created. Approximately 1 million gallons of gray water (runoff from showers, sinks and dishwashers) are produced. More than 35,000 gallons of oily bilge water (oil and chemicals from engine maintenance that collect in the bottom of ships and are toxic to marine life) are generated. Isn't it reasonable to think that these ships should be subject to the same wastewater regulations as those governing municipalities of comparable size? I think so.

While many cruise ship companies have environmental policies in place, many are voluntary with no monitoring or enforcement provisions. Unfortunately, I am all too familiar with

the down-side to voluntary agreements. In my district a cruise ship—breaking its voluntary agreement—illegally discharged into the Monterey Bay National Marine Sanctuary in 2002. Simply put, voluntary agreements between cruise lines and states aren't enough to ensure protection of our oceans. The public deserves more than industry's claims of environmental performance. We need a Federal law and we need it now. It's time we strengthen the environmental regulations and in so doing, bring these floating cities in line with current pollution treatment standards. The Clean Cruise Ship Act of 2005 is the answer.

The legislation that I am introducing today, which has bipartisan support and is endorsed by over 30 local and national groups, plugs existing loopholes in Federal laws, requires ships to treat their wastewater wherever they operate, and authorizes broadened enforcement authority. Several states including California, Alaska, Hawaii, Maine, and Washington have enacted or are currently considering legislation to better regulate various cruise ship wastes—similar to the legislation I am introducing today. In fact, I am proud to report that California is leading the country in protecting its coastal waters from cruise ship pollution. Passage of the Clean Cruise Ship Act of 2005 is one of the ways to provide all states with the kinds of ocean and coastal protections that the people of California, Alaska and Maine benefit from. Enactment of this bill will protect the tourism industry by making sure that the beaches and oceans, two of the attractions that make California the most visited state in our country, will be protected from cruise ship pollution. Simply put, this legislation ensures two things: (1) a sustainable future for our oceans, and (2) a sustainable future for the cruise and tourism industry.

This legislation promotes the public interest for all Americans. The public deserves clean water—both in our inland waterways and in our oceans. The Clean Cruise Ship Act of 2005, through its discharge standards, will give the public what it deserves.

In closing, Mr. Speaker, I urge all of my colleagues to support this critically important legislation.

INTRODUCING THE ELECTION WEEKEND ACT OF 2005

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. HASTINGS of Florida. Mr. Speaker, in 2001, the National Commission on Federal Election Reform released its report highlighting a variety of reforms that need to occur in our country's faltering election system. While I did not agree with all of the Commission's views, I did agree with the report's recommendation to establish a federal holiday on Election Day.

Today, my good friend from California, Representative Honda, and I are taking the Commission's recommendation one step further and introducing the Election Weekend Act of 2005. Our bill changes our nation's Election Day from the first Tuesday after the first Monday in November to the first consecutive Saturday and Sunday in November. Furthermore, it expresses the sense of Congress that private sector employers provide their employees with one day off during Election Weekend to allow them ample opportunity and time to cast their ballot without having to leave work.

Each Election Day, employees are faced with the difficult task of balancing their work schedules with their family responsibilities, while trying to fInd time to make it to the polls. Our bill recognizes the undue amount of pressure Americans face when trying to participate in the democratic process. It acknowledges the fact that a great deal of Americans are unable to leave their jobs in the middle of the day and vote because our elections occur on a Tuesday, a day when almost all Americans are working.

As more and more Americans enter the workforce, the choice they are forced to make between working or voting has resulted in decreased voter turnout. Turnout is even smaller in low and middle income communities where individuals do not enjoy the luxury of taking a three hour lunch to eat and vote. For many, the hour they lose in wages when they go to the polls may mean the difference between paying the bills or fInding themselves out on the street.

It is irresponsible of us to continue forcing Americans to choose between a paycheck, family time, or democracy. It is the Constitutional privilege of every American to vote. In moving our nation's Election Day to the first full weekend in November and extending it from one day to two days, we recognize the responsibility that we have to our constituents and our democratic heritage. We should be doing everything we can to protect the integrity of our election system by not only encouraging Americans to vote, but making it more convenient for them to do so.

RECOGNIZING THE 25TH ANNIVERSARY OF THE NATIONAL ASSOCIATION OF BLACK AND WHITE MEN TOGETHER

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Ms. NORTON. Mr. Speaker, I rise today to recognize the National Association of Black and White Men Together (NABWMT), a gay, multiracial, multicultural organization committed to fostering supportive environments wherein racial and cultural barriers can be overcome and the goal of human equality realized, on the occasion of its 25th Anniversary which it will celebrate this Friday evening, April 15th, with a reception in the Rayburn House Office Building Foyer.

NABWMT began in September, 1980 with an advertisement its founder, the late Michael G. Smith, placed in The Advocate. From this small advertisement NABWMT has grown into a national 501(c)(3) organization with headquarters in Pittsburgh, PA and local chapters in the major cities of the United States, including Washington, DC.

The national and the local chapter engage in educational, political, cultural and social activities as a means of dealing with racism, sexism, homophobia, HIV -AIDS discrimination, and other inequities. Among the more prominent of these activities are the Discrimination Response System, a model program which, I am proud to note, the DC Chapter created, and the widely presented Multi-Racial, Multi-Cultural Workshop.

In the 1980's, local chapters initiated AIDS education and prevention programs that, in 1988, resulted in a million dollar grant from the Centers for Disease Control, which made the NABWMT the first openly gay organization to receive federal funds to conduct a nation-wide HIV education program. From this grant NABWMT created the National Task Force on AIDS Prevention. In 1992 the National Task Force became a separate entity which conducted trainings and workshops for every active chapter in NABWMT. The Task Force created HIV/AIDS educational models that community-based organizations, health departments, and activists used throughout the United States and in countries from New Zealand to South Africa.

I ask the House to join me in congratulating the National Association of Black and White Men Together on its silver anniversary.

THE UNITED STATES SHOULD WITHDRAW FROM UNESCO

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. PAUL. Mr. Speaker, I rise today to introduce a concurrent resolution expressing the sense of the Congress that the United States should withdraw from the United Nations Educational, Scientific, and Cultural Organization (UNESCO).

Mr. Speaker, in 1984 President Ronald Reagan withdrew the United States from membership in UNESCO, citing egregious financial mis-management, blatant anti-Americanism, and UNESCO's general anti-freedom policies and programs. President Reagan was correct in identifying UNESCO as an organization that does not act in America's interest, and he was correct in questioning why the U.S. should fund 25 percent of UNESCO's budget for that privilege.

Since the United States decided to re-join UNESCO in 2003, Congress has appropriated funds to cover some 25 percent of the organization's entire budget. But what are we getting for this money?

UNESCO has joined the ''International Network for Cultural Policy'' in seeking a UN ''global diversity initiative'' by this year that would restrict US export of some $70 billion worth of movies, television programs, music recordings, and other cultural products.

UNESCO sponsors the International Baccalaureate program, which seeks to indoctrinate US primary and secondary school students through its ''universal curriculum'' for teaching global citizenship, peace studies and equality of world cultures. This program, started in Europe, is infiltrating the American school system.

UNESCO has been fully supportive of the United Nations' Population Fund in its assistance to China's brutal coercive population control program.

UNESCO has designated 47 U.N. Biosphere Reserves in the United States covering more than 70 million acres, without Congressional consultation.

Continued membership in UNESCO is a blatant assault on our sovereignty and an inexcusable waste of U.S. taxpayer dollars.

Mr. Speaker, I hope all members of this body will join me in calling for an end to U.S. membership in the United Nations Educational, Scientific, and Cultural Organization by co-sponsoring this legislation.

HONORING THE 100TH ANNIVERSARY OF THE KNIGHTS OF COLUMBUS COUNCIL 1028 OF BELLEVILLE, ILLINOIS

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. COSTELLO. Mr. Speaker, I rise today to ask my colleagues to join me in recognizing the 100th Anniversary of the Knights of Columbus Council 1028 of Belleville, Illinois.

In 1905, 31 members of the Knights of Columbus Council in East St. Louis, who lived in or near Belleville, Illinois, desired to have their own Council. After several rounds of negotiations with Bishop Janssen, the first bishop of the Belleville Diocese, this committee was successful in obtaining his approval. The National Council issued the charter and the first meeting of Belleville Council 1028 was held on July 7, 1905.

From this small but determined group of initial members, Council 1028 would grow to a peak of approximately 700 knights at the time of their Golden Jubilee, in 1955. During this time of growth, the goals of the Knights of Columbus, Charity, Unity and Fraternity, would be the guiding principals of the Belleville Council.

In 1906, one year after the Council was formed, and again in 1907, Council 1028 presented Bishop Janssen with checks of $1,000,—a substantial sum in those days!—for the support of 81st. John's Orphanage. For the remaining time that 81st. John's was in existence as an orphanage, that institution was a favorite charity of Council 1028. Other worthy recipients of support through the years have been 81st. Elizabeth's Hospital, the Newman Foundation at Illinois Universities, Parent Teachers of Exceptional Children, the Mamie O. Stookey School, the Autism Society of Illinois, the Murray Center, Special Olympics and numerous local organizations.

The Belleville Council has always been a supporter of local youth activities. Boy Scout Troop 16, at St. John's Orphanage, was organized by the Council and supported for years. Catholic grade school field days were sponsored and numerous trophies were supplied for individual and team sports. The Council still sponsors local youth sport teams and continues to hold annual and recreational programs and many religious activities have helped promote camaraderie among the knights and their families.

While the names are too numerous to mention of those who have been instrumental in the history of the Belleville Council, one name is now officially linked to the Council. The Belleville Council is now named Monsignor Leonard A. Bauer Council 1028 to honor the dedicated service of Monsignor Bauer as the Council Chaplain for many years.

Council 1028 has seen many changes through the last 100 years but they have always stayed true to the Knights of Columbus goals of Charity, Unity and Fraternity.

Mr. Speaker, I ask my colleagues to join me in honoring the 100th Anniversary of the Knights of Columbus Council 1028 and wish them the best for continued service in the future.

CELEBRATING 90 YEARS OF PEACEMAKING

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise in honor of Women's International League for Peace and Freedom, (WILPF) who on April 9, 2005, celebrated their ninetieth anniversary marking their work for peace for justice.

We commend Phyllis S. Yingling and the Joint Planning Committee ofthe Baltimore/Catonsville area for their hard work on behalf of women and world peace.

WILPF, located in 36 nations, was formed in 1915 during World War I. WILPF works to achieve through peaceful means world disarmament, full rights for women, racial and economic justice, an end to all forms of violence and to establish those political, social, and psychological conditions which can assure peace, freedom and justice for all.

Out of a meeting planned amongst western European and N. American suffragists grew WILPF. The meeting was supposed to be in Berlin. The war prevented the women from going to Berlin, so the women went to The Hague. Over 1200 women attended. At that meeting the women decided that ending the killing and the violence of war was even more important than suffrage for women.

WILPF's first International President was Jane Addams, founder of Hull House in Chicago and the first U.S. woman to win the Nobel Peace Prize.

The United States Section of WILPF maintains a presence in Washington, D.C. providing support and organizing connections for the grassroots activities of WILPF's members located in 80 branches across the United States. They work in coalition with other disarmament, women's human rights, and racial and economic justice organizations to translate women's experience and vision into policies to promote peace and justice

For the last nine decades, WILPF has had a vision of peaceful and non-violent solutions to conflicts around the world.

We salute WILPF for their remarkable vision that we respect and that which still guides us today as we face the human security challenges of tomorrow.

HONORING JUDGE MATTHEW J. JASEN, RETIRED ASSOCIATE JUDGE OF THE NEW YORK STATE COURT OF APPEALS

HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. HIGGINS. Mr. Speaker, today, Thursday, April 14, 2005, the New York State Court of Appeals will for the first time in modern memory hold a session outside of the State capital of Albany. For this august occasion they have chosen the newly-renovated courtroom of Erie County Surrogate Court Judge Barbara Howe.

Tomorrow, however, the seven member court will honor one of its former members, and that is the reason why I rise today. Tomorrow, former New York State Court of Appeals Associate Judge Matthew Jasen, a resident of the town of Orchard Park in my congressional district, will be honored by his successor colleagues on the court

Judge Jasen was the Court of Appeals' first Judge of Polish-American descent. The most recent Western New Yorker to be elected to New York State's highest court, the Court of Appeals, Judge Jasen is an outstanding contributor to the Western New York community and to the legal profession, and I am proud to honor him today.

Through a combination of intellect and fortitude, Judge Jasen worked his way through the Great Depression to achieve great heights in Western New York's legal community. Educated at Buffalo's own Canisius College and receiving his law degree from the University at Buffalo, Judge Jasen went on to attend Harvard University's Civil Affairs School, and was admitted to the New York State Bar in 1940.

Before beginning his distinguished career in law, Jasen was called to serve his country in the armed services in Germany during World War II. Following his service, he received an appointment to serve as the United States Military Court Judge at Heidelberg, where he presided over trials of Nazi Youth groups.

In 1957, Jasen was appointed to his second judgeship, the New York State Supreme Court, and 10 years later, Judge Jasen took on the race for Associate Judge of the New York State Court of Appeals.

Today, Judges of the New York State Court of Appeals are appointed by the Governor, subject to the confirmation of the State Senate. This was not so in the 1960s, when Judges instead ran for this office in statewide elections. Through his skills as a grass-roots organizer and with tremendous perseverance, Judge Jasen, a loyal and longtime Democrat, was elected to the Court of Appeals.

Judge Jasen's career on the state's highest court ranged from his election in 1967 to his statutory retirement in 1985 at the age of seventy. During his 18 years on the high court, Judge Jasen played a part in hundreds of landmark decisions of the court, and played a significant role in the court's transition from an elected body to one of appointment based on merit. Nowadays, court appointments are made by the Governor, who must choose his Appeals court appointees from a list of three candidates presented to him by a judicial screening panel. An elected Judge himself, Judge Jasen was a strong advocate for merit selection, having authored articles on the subject in the mid-1970s.

Following his retirement, Judge Jasen re-entered the practice of law himself, serving as Of Counsel to law firms operated by his sons, Peter M. Jasen, Esq. and Mark Matthew Jasen, Esq. Despite advancing age, Judge Jasen's post-judicial legal career has been a busy one as well, taking part in cases on local, State and Federal levels, serving as Special Master in a number of State and Federal actions and in performing other services as an officer of the court.

I am proud to honor Judge Matthew J. Jasen today—an outstanding member of the bar and of the Western New York community—and I am certain that the whole of our community would join with me in offering my congratulations to Judge Jasen upon his receipt of this most recent honor in his long and distinguished career. I thank you, Mr. Speaker, for offering me an opportunity to share with the House Judge Jasen's accomplishments and for allowing me this chance to join in honoring him.

HONORING THE CONTRIBUTIONS OF JUSTICE OF THE PEACE ANDREW CABLE

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to recognize the distinguished public service of Andrew Cable.

Andrew Cable graduated from Southwest Texas State University in 1992, and received his Bachelors of Science in Criminal Justice. Upon graduation, he decided to pursue a career in law and real estate. He has had an extremely varied and successful professional life: he currently holds a real estate license, a license as a community corrections officer, and a certification in commercial banking.

He and his wife, Rebecca, have been tireless volunteers in their community. Mr. Cable is a member of many organizations, including the Texas Justice Court Judges Association, the Texas Community Justice Task Force, the Wimberly High School Mentor Program, and the Community Emergency Response Team Advisory Board.

Mr. Cable was elected Justice of the Peace in 1998. He represents Precinct 3 of Hays County, which includes, among several other towns, Mr. Cable's home of Wimberly. His extensive education and experience make him an excellent public servant, and an important resource for his friends and neighbors.

Mr. Cable is the sort of energetic, knowledgeable leader who holds our communities together. The people of Hays County are lucky to have him as a Justice of the Peace, and I am happy to have the chance to acknowledge him here today.

IN HONOR OF THE SANTA CRUZ HIGH SCHOOL BOYS BASKETBALL TEAM

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. FARR. Mr. Speaker, I rise today to congratulate the Santa Cruz High School Boys Basketball Team. The Cardinals won the title of Boys Basketball Division III California State Champions 2004–05. Led by Coach Pete Newell Jr., the exciting victory of 67–56 against St. Augustine took place on March 19, 2005.

The Boys Basketball team has enjoyed a winning season with their record standing at 36–1. Their only loss was by one point to Santa Margarita in a suspenseful overtime. The team set a Central Coast record with 36 season victories, the most by any team, boys or girls, in the state this season. Their accomplishments brought unprecedented firsts for the Central Coast community.

All nineteen Cardinal players were able to contribute to the successful season. After thirty years of coaching the Santa Cruz High School's Boys Basketball team and with the 2005 State Championship under his belt, Mr. Newell has opted to retire with a winning record. Throughout his career, he has led the team to victory 554 out of 880 games. Mr. Newell's diligent efforts will surely be missed by the Cardinals and the Santa Cruz community.

Mr. Speaker, I wish to congratulate the Santa Cruz High School Boys Basketball Team on their Division III State Championship. They have demonstrated hard work, perseverance, and relentless dedication to the sport of basketball. I extend my congratulations to the Cardinals and wish the team many successful seasons to come.

MAKING ENVIRONMENTAL JUSTICE A NATIONAL PRIORITY

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. HASTINGS of Florida. Mr. Speaker, it was barely 20 years ago when the nation first became concerned with minority communities and the disproportionate impact from polluting facilities. At that time, we referred to this problem as environmental racism. This was a term which strongly depicted the harsh reality and the disparities of environmental policy or practices affecting individuals, groups, or communities based on race or color. In the last decade, the pursuit against environmental racism has been transformed into an effort to achieve environmental justice in all socio-economic communities, suggesting that we are making wiser environmental policy decisions and engaging in a proactive approach.

On February 11, 1994, President Clinton signed Executive Order (EO) 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations. EO 12898 required that all appropriate federal agencies collect data on the health and environmental impact of their programs and activities on ''minority populations'' and ''low-income populations'' and to develop policies to achieve environmental justice. EO 12898 also requires federal agencies and their funding recipients to fully comply with Title VI of the Civil Rights Act of 1964 by conducting their programs and implementing policies in a nondiscriminatory manner.

Despite EO 12898, federal efforts to achieve environmental justice have been minimal at best. In fact, in 2002, the U.S. Commission on Civil Rights held hearings on the issue and concluded that due to organizational and financial limitations, ''there is inconsistency and unevenness in the degree to which agencies achieved integration of environmental justice into their core mission.'' It also noted that ''current funding and staffing levels [at federal agencies] undermine meaningful Title VI enforcement at a time when there are increasing judicial barriers to enforcing Title VI.''

I come to the floor today to introduce legislation that expands the definition of environmental justice, directs each Federal Agency to establish an office of environmental justice, reestablishes the interagency Federal Working Group on Environmental Justice, and requires that EO 12898 remain in force until changed by law. My legislation represents a significant step in ensuring that current and future federal policies reflect the intentions and goals of EO 12898 and protect minority and low-income communities from poor environmental and energy decisions and policies.

I ask for my colleagues support, and urge the House Leadership to expeditiously bring this critical legislation to the House floor for consideration.

INTRODUCTION OF THE DISTRICT OF COLUMBIA BUDGET AUTONOMY ACT OF 2005

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Ms. NORTON. Mr. Speaker, today, Senate Government Affairs Chair SUSAN COLLINS, Ranking Member Senator JOE LIEBERMAN, Senator GEORGE VOINOVICH, Senator DANIEL AKAKA, Senator MARY LANDRIEU, House Government Reform Committee Chair TOM DAVIS, Ranking Member HENRY WAXMAN and I introduce H.R. 1629, the District of Columbia Budget Autonomy Act of 2005, which passed the Senate in the last Congress, but did not pass the House. It marked the most significant change in self-government since the Home Rule Act was passed in 1973. Instead, Congress continues to essentially use the same oversight process it has used since the District was created as a functioning city more than 200 years ago. The partial budget autonomy in this bill would be a major step to improve the efficiency of the congressional appropriations process and a historic step toward full self-government for the District of Columbia.

Our bill starts as a compromise that is less than what the District and every local jurisdiction is entitled to in the management of its local funds. As important as this bill is, it is not the self-contained and more efficient procedure used by every state and locality in our country. The District's budget would still come to the Congress, but it would be discharged after 30 calendar days. This step would take the city a great distance toward functional budget autonomy and away from a congressional process that adds large dollar costs to running the city, and incalculable waste and inefficiency directly traceable to the congressional appropriations process.

Our bill would significantly streamline and untangle the process. It also would eliminate the most inefficient and demeaning impediment to the local control every other jurisdiction enjoys, in requiring that the budget of the local jurisdiction be enacted by the District and the Congress as Congress enacts the budgets of federal agencies, such as the Interior Department and the Labor Department.

For most of my service in Congress, the enactment requirement has usually kept the District from having a local annual budget with which to operate and manage the city for months at a time. The requirement of our bill

that the D.C. budget become operative after 30 calendar days would have large effects on everything from the District's bond rating to its ability to more efficiently manage every function of the D.C. government.

The irony is that the Congress almost never changes the District's locally raised core budget in any case. Even at its most intrusive, Congress has realized that when it comes to the complexities of budget decisions for city agencies, Congress is in foreign territory. This is only one of the reasons that I think members of the House and Senate have been open to the change we propose. I appreciate the support this approach already has received in the Senate.

For years Congress saw the D.C. budget wreck the larger appropriation process for the country. Too often the District appropriation, by far the smallest of all of the appropriations, has been the largest impediment to the entire appropriation process and a major cause of delay. I am especially grateful for the way that Chairman BILL YOUNG worked with me to remove obstacles and often to rescue the D.C. budget altogether. I expect that my good friend, JERRY LEWIS, our new appropriations chair who has often been helpful to me and the city, will want to see the District come smoothly through the process as well. Speaker DENNIS HASTERT and former Speaker Newt Gingrich both have become involved as a last resort, when only they could rescue the locally raised budget from lengthy delays. I very much appreciate that they have always responded when I have asked for their help.

However, the local balanced budget of a great city should not need extraordinary action by House speakers or full appropriation chairs. Despite a national economy that has left states and local jurisdictions on their knees, in recent years the District has balanced its budget without raising taxes and without using its cash reserve funds. Because the Mayor and the City Council have been cautious and conservative in their management of city finances and operations, the District has avoided the budget problems that plague many jurisdictions today.

After more than 200 years of unchanged procedures here in the Congress, the city's record today and the bill we are considering today should be the beginning of improvement of congressional processes in aid of greater efficiency for the D.C. government. Even full city autonomy over its local budget would not deprive the Congress of the right to make changes by legislation.

Congressional enactment of the Home Rule Act after a century of struggle was a major breakthrough. However, Congress has made no major step toward self-government since 1973. Surely the place to begin is with the city's own budget. Today must mark a long awaited step toward equal citizenship and equal treatment by the Congress. At the very least, the District is owed a Congressional response in kind to the very substantial improvements the city has made in its finances and operations for six years. The way to begin is by matching the District's greater efficiency in managing its finances and operations with the same in our own processes. The way to begin is with budget autonomy.

THE AMERICAN JUSTICE FOR AMERICAN CITIZENS ACT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. PAUL. Mr. Speaker, I rise to introduce the American Justice for American Citizens Act, which exercises Congress's Constitutional authority to regulate the federal judiciary to ensure that federal judges base their decisions solely on American Constitutional, statutory, and traditional common law. Federal judges increasing practice of ''transjudicialism'' makes this act necessary. Transjudicialism is a new legal theory that encourages judges to disregard American law, including the United States Constitution, and base their decisions on foreign law. For example, Supreme Court justices have used international law to justify upholding race-based college admissions, overturning all state sodomy laws, and, most recently, to usurp state authority to decide the age at which criminals becomes subject to the death penalty.

In an October 28, 2003 speech before the Southern Center for International Studies in Atlanta, Georgia, Justice O'Connor stated: ''[i]n ruling that consensual homosexual activity in one's home is constitutionally protected, the Supreme Court relied in part on a series of decisions from the European Court of Human Rights. I suspect that with time, we will rely increasingly on international and foreign law in resolving what now appear to be domestic issues, as we both appreciate more fully the ways in which domestic issues have an international dimension, and recognize the rich resources available to us in the decisions of foreign courts.''

This statement should send chills down the back of every supporter of Constitutional government. After all, the legal systems of many of the foreign countries that provide Justice O'Connor with ''rich resources'' for her decisions do not respect the same concepts of due process, federalism, and even the presumption of innocence that are fundamental to the American legal system. Thus, harmonizing American law with foreign law could undermine individual rights and limited, decentralized government.

There has also been speculation that transjudicialism could be used to conform American law to treaties, such as the U.N. Convention on the Rights of the Child, that the Senate has not ratified. Mr. Speaker, some of these treaties have not been ratified because of concerns regarding their effects on traditional American legal, political, and social institutions. Judges should not be allowed to implement what could be major changes in American society, short-circuit the democratic process, and usurp the Constitutional role of the Senate to approve treaties, by using unratifed treaties as the bases of their decisions.

All federal judges, including Supreme Court justices, take an oath to obey and uphold the Constitution. The Constitution was ordained and ratified by the people of the United States to provide a charter of governance in accord with fixed and enduring principles, not to empower federal judges to impose the transnational legal elites' latest theories on the American people.

Mr. Speaker, the drafters of the Constitution gave Congress the power to regulate the jurisdiction of federal courts precisely so we could intervene when the federal judiciary betrays its responsibility to uphold the Constitution and American law. Congress has a duty to use this power to ensure that judges base their decisions solely on American law.

Therefore, Mr. Speaker, I urge my colleagues to do their Constitutional duty to ensure that American citizens have American justice by cosponsoring the American Justice for American Citizens Act.

Daily Digest

HIGHLIGHTS

The House passed S. 256, Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

Senate

Chamber Action

Routine Proceedings, pages S3609–S3715

Measures Introduced: Thirty one bills and seven resolutions were introduced, as follows: S. 780–810, S.J. Res.12–13, S. Res.107–110, and S. Con. Res.27. **Pages S3652–53**

Measures Reported:

S. 119, to provide for the protection of unaccompanied alienchildren, with an amendment.

S. 555, to amend the Sherman Act to make oil-producing and exporting cartels illegal. **Page S3652**

Measures Passed:

Robert T. Matsui U.S. Courthouse: Senate passed H.R. 787, to designate the United States courthouse located at 501 I Street in Sacramento, California, as the ''Robert T. Matsui United States Courthouse'', clearing the measure for the President. **Page S3712**

University of Oklahoma Sooner Men's Gymnastics Champions: Senate agreed to S. Res. 109, commending the University of Oklahoma Sooners men's gymnastics team for winning the National Collegiate Athletic Association Division I Men's Gymnastics Championship. **Page S3712**

Oklahoma State University's Wrestling Team Champions: Senate agreed to S.Res.110, commending Oklahoma State University's wrestling team for winning the 2005 National Collegiate Athletic Association Division I Wrestling Championship. **Pages S3712–13**

National Month of the Military Child: Senate agreed to S. Con. Res. 27, honoring military children during ''National Month of the Military Child''. **Page S3713**

Supplemental Appropriations: Senate continued consideration of H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, taking action on the following amendments proposed thereto: **Pages S3616–3645**

Adopted:

Cochran (for Leahy/Obama) Amendment No. 422, of a technical nature. **Page S3619**

Cochran (for Salazar) Modified Amendment No. 370, to provide assistance topromote democracy in Lebanon. **Page S3619**

Cochran (for Leahy) Amendment No. 423, to provide reprogramming authority for certain accounts in the Departments of Commerce, Justice, State, the Judiciary, and Related Agencies Appropriations Act, 2005. **Page S3619**

Cochran (for Reid/Levin) Amendment No. 361, to express the sense of the Senate that veterans with a service-connected disability rated as total by virtue of unemployability should be treated as covered by the repeal of the phase-in of concurrent receipt of retired pay and veterans disability compensation for military retirees. **Page S3620**

Cochran Amendment No. 424, of a technical nature. **Pages S3620–21**

By a unanimous vote of 98 yeas (Vote No. 95), Byrd Modified Amendment No. 430, to prohibit the use of funds by any Federal agency to produce a prepackaged news story without including in such story a clear notification for the audience that the story was prepared or funded by a Federal agency. **Pages S3630–41**

Obama Amendment No. 390, to provide meal and telephone benefits for members of the Armed Forces who are recuperating from injuries incurred

on active duty in Operation Iraqi Freedom or Operation Enduring Freedom. **Pages S3641–43**

Cochran (for Salazar) Amendment No. 352, to rename the death gratuity payable for deaths of members of the Armed Forces as fallen hero compensation. **Page S3643**

Cochran (for Specter) Amendment No. 438, to make a technical correction to cite the proper section intended to repeal the Department of Labor's transfer authority. **Page S3643**

Cochran (for Graham) Amendment No. 354, to prohibit the implementation ofcertain orders and guidance on the functions and duties of the General Counsel and Judge Advocate General of the Air Force. **Page S3643**

Cochran (for Kennedy) Amendment No. 393, to clarify the limitation on the implementation of mission changes for specified Veterans Health Administration Facilities. **Pages S3643–44**

Cochran (for Warner) Amendment No. 394, to require a report on the re-use and redevelopment of military installations closed or realigned as part of the 2005 round of base closure and realignment. **Page S3644**

Pending:

Mikulski Amendment No. 387, to revise certain requirements for H–2B employers and require submission of information regarding H–2B nonimmigrants. **Pages S3616, S3626–27, S3638**

Feinstein Amendment No. 395, to express the sense of the Senate that the text of the REAL ID Act of 2005 should not be included in the conference report. **Pages S3616, S3645**

Bayh Amendment No. 406, to protect the financial condition of members of the reserve components of the Armed Forces who are ordered to long-term active duty in support of a contingency operation. **Page S3616**

Durbin Amendment No. 427, to require reports on Iraqi security services. **Pages S3621–26**

Salazar Amendment No. 351, to express the sense of the Senate that the earned income tax credit provides critical support to many military and civilian families. **Pages S3627–30**

Dorgan/Durbin Amendment No. 399, to prohibit the continuation of the independent counsel investigation of Henry Cisneros past June 1, 2005 and request an accounting of costs from GAO. **Pages S3640–41**

Reid Amendment No. 445, to achieve an acceleration and expansion of efforts to reconstruct and rehabilitate Iraq and to reduce the future risks to United States Armed Forces personnel and future costs to United States taxpayers, by ensuring that the people of Iraq and other nations do their fair share to secure and rebuild Iraq. **Pages S3644–45**

A motion was entered to close further debate on Mikulski Amendment No. 387 (listed above) and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a vote on cloture will occur on Saturday, April 16, 2005.

A unanimous-consent agreement was reached providing for further consideration of the bill at approximately 9:30 a.m., on Thursday, April 14, 2005. **Page S3635**

Nominations Received: Senate received the following nominations:

Phyllis F. Scheinberg, of Virginia, to be an Assistant Secretary of Transportation.

David R. Hill, of Missouri, to be General Counsel of the Department of Energy.

Craig Roberts Stapleton, of Connecticut, to be Ambassador to France.

Eduardo Aguirre, Jr., of Texas, to be Ambassador to Spain, and to serve concurrently and without additional compensation as Ambassador to Andorra.

Emil A. Skodon, of Illinois, to be Ambassador to Brunei Darussalam.

2 Air Force nominations in the rank of general.

5 Army nominations in the rank of general.

1 Navy nomination in the rank of admiral.

Routine lists in the Army. **Pages S3714–15**

Messages From the House: **Page S3650**

Measures Referred: **Page S3650**

Executive Communications: **Pages S3650–52**

Executive Reports of Committees: **Page S3652**

Additional Cosponsors: **Pages S3653–55**

Statements on Introduced Bills/Resolutions: **Pages S3655–91**

Additional Statements: **Pages S3647–49**

Amendments Submitted: **Pages S3691–S3711**

Notices of Hearings/Meetings: **Page S3711**

Authority for Committees to Meet: **Pages S3711–12**

Privilege of the Floor: **Page S3712**

Record Votes: One record vote was taken today. (Total–95) **Page S3641**

Adjournment: Senate convened at 9:30 a.m., and adjourned at 7:20 p.m., until 9:30 a.m., on Friday, April 15, 2005. (For Senate's program, see the remarks of the Majority Leader in today's Record on pages S3713–14.)

Committee Meetings

(Committees not listed did not meet)

APPROPRIATIONS: HUD

Committee on Appropriations: Subcommittee on Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies concluded a hearing to examine proposed budget estimates for fiscal year 2006 for the Department of Housing and Urban Development, after receiving testimony from Alphonso Jackson, Secretary of Housing and Urban Development.

APPROPRIATIONS: DEPARTMENT OF AGRICULTURE

Committee on Appropriations: Subcommittee on Agriculture, Rural Development, and Related Agencies concluded a hearing to examine proposed budget estimates for fiscal year 2006, after receiving testimony in behalf of funds for their respective activities from William T. Hawks, Under Secretary for Marketing and Regulatory Programs, Eric M. Bost, Under Secretary for Food, Nutrition, and Consumer Services, and Merle D. Pearson, Acting Under Secretary for Food Safety and Inspection, all of the Department of Agriculture.

APPROPRIATIONS: NATIONAL NUCLEAR SECURITY ADMINISTRATION

Committee on Appropriations: Subcommittee on Energy and Water, and Related Agencies concluded a hearing to examine proposed budget estimates for fiscal year 2006, after receiving testimony in behalf of funds for his respective activities from Linton F. Brooks, Under Secretary for Nuclear Security and Administrator, National Nuclear Security Administration, Department of Energy.

NATIONAL SECURITY PERSONNEL SYSTEM

Committee on Armed Services: Committee concluded a hearing to examine implementation by the Department of Defense of the National Security Personnel System, focusing on pay, performance, accountability, staffing flexibilities, and labor relations, after receiving testimony from Gordon R. England, Secretary of the Navy; Dan G. Blair, Acting Director, Office of Personnel Management; Derek B. Stewart, Director, Military and Department of Defense Civilian Personnel Issues, Government Accountability Office; and John Gage, American Federation of Government Employees, and Hannah S. Sistare, National Academy of Public Administration, both of Washington, D.C.

DEFENSE AUTHORIZATION

Committee on Armed Services: Subcommittee on Airland concluded a hearing to examine Air Force acquisition oversight in review of the Defense Authorization Request for Fiscal Year 2006, after receiving testimony from Paul J. McNulty, U.S. Attorney for the Eastern District of Virginia, Department of Justice; Joseph E. Schmitz, Inspector General, Michael L. Dominguez, Acting Secretary of the Air Force, and Sallie Flavin, Deputy Director, Defense Contract Management Agency, all of the Department of Defense; and Daniel I. Gordon, Managing Associate General Counsel for Procurement Law, Government Accountability Office.

TERRORISM RISK INSURANCE PROGRAM

Committee on Banking, Housing, and Urban Affairs: Committee concluded a hearing to examine the implementation of the Terrorism Risk Insurance Program, focusing on the role of the Federal government in ensuring that insurance to protect against losses from acts of terrorism remains available to Americans, after receiving testimony from Douglas Holtz-Eakin, Director, Congressional Budget Office; Howard Mills, New York State Department of Insurance, Albany, on behalf of the National Association of Insurance Commissioners; and Ernst Csiszar, Property Casualty Insurers Association of America, J. Robert Hunter, Consumer Federation of America, Brian Duperreault, ACE Limited, on behalf of the American Insurance Association, Franklin W. Nutter, Reinsurance Association of America, and Robert J. Lowe, Lowe Enterprises, on behalf of the Coalition to Insure Against Terrorism, all of Washington, D.C.

BUSINESS MEETING

Committee on Commerce, Science, and Transportation: Committee ordered favorably reported the following business items:

S. 364, to establish a program within the National Oceanic Atmospheric Administration to integrate Federal coastal and ocean mapping activities, with amendments;

S. 714, to amend section 227 of the Communications Act of 1934 relating to the prohibition on junk fax transmissions, with amendments;

S. 432, to establish a digital and wireless network technology program;

An original bill, to reauthorize and improve surface transportation safety programs; and

The nominations of a National Oceanic and Atmospheric Administration Promotion List, and 2 Coast Guard Promotion Lists.

TAX GAP

Committee on Finance: Committee held a hearing to examine issues relating to the amount of taxes, including individual income, corporate income, employment, estate, and excise, owed by taxpayers and the amount voluntarily paid on time (the so-called "tax gap"), focusing on tax laws and enforcement, pensions and employee benefits, and fraud, receiving testimony from George K. Yin, Chief of Staff, Joint Committee on Taxation; Eileen J. O'Connor, Assistant Attorney General, Tax Division, Department of Justice; David M. Walker, Comptroller General of the United States, Government Accountability Office; Mark Everson, Commissioner, Kevin M. Brown, Commissioner, Small Business/Self-Employed Division, and Nancy J. Jardini, Chief, Criminal Investigation, all of the Internal Revenue Service, and J. Russell George, Inspector General for Tax Administration, all of the Department of the Treasury; and Nina E. Olson, National Taxpayer Advocate, Washington, D.C.

Hearing recessed subject to the call.

UNFUNDED MANDATES REFORM ACT

Committee on Homeland Security and Governmental Affairs: Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia concluded an oversight hearing to examine a review of the Unfunded Mandates Reform Act of 1995, focusing on the impact the Act has had on Federal, state, and local governments and explore if changes are necessary to strengthen the law's procedures, definitions, and exclusions, after receiving testimony from Orice M. Williams, Director, Strategic Issues, Government Accountability Office; John D. Graham, Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget; Elizabeth Robinson, Deputy Director, Congressional Budget Office; Maryland Delegate John Hurson, Annapolis, on behalf of the National Conference of State Legislatures; Colleen Landkamer, Blue Earth County, Mankato, Minnesota, on behalf of the National Association of Counties; and Nick Licata, City of Seattle, Washington, on behalf of the National League of Cities.

U.S. POSTAL SERVICE

Committee on Homeland Security and Governmental Affairs: Committee concluded a hearing to examine the ongoing need for comprehensive postal reform, focusing on United States Postal Service reform that includes self-financing, transparency, flexibility, accountability and corporate best practices, after receiving testimony from Timothy S. Bitsberger, Assistant Secretary of the Treasury for Financial Markets; Dan G. Blair, Acting Director, Office of Personnel Management; John E. Potter, Postmaster General, U.S. Postal Service; and David M. Walker, Comptroller General of the United States, Government Accountability Office.

EDUCATION OPPORTUNITIES

Committee on Health, Education, Labor, and Pensions: Committee concluded a hearing to examine lifelong education opportunities, focusing on S. 694, to amend the Workforce Investment Act of 1998 to provide for a job training grant pilot program, after receiving testimony from Elaine L. Chao, Secretary of Labor; Margaret Spellings, Secretary of Education; Kentucky Governor Ernie Fletcher, Frankfort, and Kansas Governor Kathleen Sebelius, Topeka, both on behalf of the National Governors Association; Steve Gunderson, The Greystone Group, Arlington, Virginia; Brian K. Fitzgerald, The Business-Higher Education Forum, Washington, D.C.; and Pamela Boisvert, Colleges of Worcester Consortium, Worcester, Massachusetts.

BUSINESS MEETING

Committee on the Judiciary: Committee ordered favorably reported the following business items:

S. 119, to provide for the protection of unaccompanied alien children, with an amendment;

S. 555, to amend the Sherman Act to make oil-producing and exporting cartels illegal, and

The nominations of Thomas B. Griffith, of Utah, to be a United States Circuit Judge for the District of Columbia Circuit, Robert J. Conrad, Jr., to be United States District Judge for the Western District of North Carolina, and James C. Dever III, to be United States District Judge for the Eastern District of North Carolina.

IMMIGRATION REFORM

Committee on the Judiciary: Subcommittee on Immigration, Border Security and Citizenship and Subcommittee on Terrorism, Technology, and Homeland Security concluded joint hearings to examine immigration reform issues, focusing on deportation and related issues relating to strengthening interior enforcement, after receiving testimony from Jonathan Cohn, Deputy Assistant Attorney General, Civil Division, Department of Justice; Victor X. Cerda, Acting Director of Detention and Removal Operations, Immigration and Customs Enforcement, and David Venturella, former Acting Director of the Office of Detention and Removal Operations, both of the Department of Homeland Security; and Lee Gelernt, American Civil Liberties Union Immigrant's Rights Project, Washington, D.C.

NOMINATION

Select Committee on Intelligence: Committee concluded a hearing to examine the nomination of Lieutenant General Michael V. Hayden, United States Air Force, to be Principal Deputy Director of National Intelligence, after the nominee, who was introduced by Senator Mikulski and Representative Murtha, testified and answered questions in his own behalf.

BUSINESS MEETING

Select Committee on Intelligence: Committee met in closed session and ordered favorably reported the nominations of John D. Negroponte, of New York, to be Director of National Intelligence, and Lieutenant General Michael V. Hayden, United States Air Force, to be Principal Deputy Director of National Intelligence.

Committee recessed subject to the call.

House of Representatives

Chamber Action

Measures Introduced: 44 public bills, H.R. 1629–1672; 1 private bill, H.R. 1673 and; 8 resolutions, H. J. Res. 42; H. Con. Res. 132–133, and H. Res. 213–217 were introduced. **Pages H2100–02**

Additional Cosponsors: **Pages H2102–04**

Reports Filed: Reports were filed today as follows:

H.R. 804, to exclude from consideration as income certain payments under the national flood insurance program (H. Rept. 109–44). **Page H2100**

Bankruptcy Abuse Prevention and Consumer Protection Act of 2005: The House passed S. 256, to amend title 11 of the United States Code, by a yea-and-nay vote of 302 yeas to 126 nays, Roll No. 108—clearing the measure for the President.

Pages H1974–87, H1988–92, H1993–H2077

Rejected the Schakowsky motion to recommit the bill to the Committee on the Judiciary with instructions to report the bill back to the House forthwith with an amendment, by a recorded vote of 200 yeas to 229 nays, Roll No. 107. **Pages H2074–76**

H. Res. 211, the rule providing for consideration of the measure was agreed to by a recorded vote of 227 ayes to 196 noes, Roll No. 105, after agreeing to order the previous question by a yea-and-nay vote of 227 yeas to 199 nays, Roll No. 104.

Pages H1991–92

Motion to Adjourn: Rejected the Woolsey motion to adjourn by a yea-and-nay vote of 49 yeas to 371 nays, Roll No. 103. **Pages H1987–88**

Privileged Resolution: The House agreed to table H. Res. 213, relating to a question of privileges of the House, by a yea-and-nay vote of 218 yeas to 195 nays, Roll No. 106. **Pages H1992–93**

Meeting Hour: Agreed that when the House adjourns today, it adjourn to meet at 2 p.m. on Monday, April 18, and further, that when the House adjourns on that day, it adjourn to meet at 12:30 p.m. on Tuesday, April 19 for Morning Hour debate.

Page H2081

Calendar Wednesday: Agreed to dispense with the Calendar Wednesday business of Wednesday, April 20. **Page H2081**

Board of Visitors to the United States Coast Guard Academy—Appointment: The Chair announced the Speaker's appointment of Representative Simmons to the Board of Visitors to the United States Coast Guard Academy. **Page H2081**

Board of Visitors of the United States Merchant Marine Academy—Appointment: The Chair announced the Speaker's appointment of Representative King (NY) to the Board of Visitors to the United States Merchant Marine Academy. **Page H2081**

Board of Visitors to the United States Military Academy—Appointment: The Chair announced the Speaker's appointment of the following Members to the Board of Visitors to the United States Military Academy: Representatives Kelly and Taylor (NC). **Page H2081**

Mexico-United States Interparliamentary Group—Appointment: The Chair announced the Speaker's appointment of the following Members to the Mexico-United States Interparliamentary Group: Representatives Kolbe and Harris. **Page H2081**

Amending the Internal Revenue Code of 1986 with regard to disaster mitigation payments: The House agreed by unanimous consent to concur in the Senate amendment and pass H.R. 1134, to amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments—clearing the measure for the President. **Pages H2082–83**

Senate Message: Message received from the Senate today appears on page H1971.

Quorum Calls—Votes: Five yea-and-nay votes and one recorded vote developed during the proceedings of today and appear on pages H1987–88, H1991, H1992, H1992–93, H2075–76, H2076–77. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 6:48 p.m.

Committee Meetings

DEFENSE APPROPRIATIONS

Committee on Appropriations: Subcommittee on Defense held a hearing on Recruiting and Retention. Testimony was heard from the following officials of the Department of Defense: Charles S. Abell, Principal Deputy Under Secretary, Personnel and Readiness; LTG Franklin Hagenbeck, Chief of Staff, U.S. Army; LTG Roger Schultz, Director, Army National Guard; and LTG James R. Helmly, USAR, Chief of Army Reserve.

DEPARTMENT OF HOMELAND SECURITY

Committee on Appropriations: Subcommittee on The Department of Homeland Security held a hearing on Science and Technology. Testimony was heard from Charles McQueary, Under Secretary, Science and Technology, Department of Homeland Security.

DEPARTMENT OF LABOR, HHS, EDUCATION, AND RELATED AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on the Department of Labor, Health and Human Services, Education, and Related Agencies continued appropriation hearings. Testimony was heard from public witnesses.

DEPARTMENT OF TRANSPORTATION, TREASURY, AND HUD, THE JUDICIARY, DISTRICT OF COLUMBIA, AND INDEPENDENT AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and Independent Agencies held a hearing on the Election Assistance Commission, and the Consumer Product Safety Commission. Testimony was heard from the following officials of the Election Assistance Commission: Cracia Hillman, Chairman, Paul DeGregorio, Vice Chairman; Mel Martinez and DeForest Soaries, both Commissioners; and the following officials of the Consumer Product Safety Commission: Hal Stratton, Chairman; and Thomas H. Moore, Vice Chairman.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on Foreign Operations, Export Financing, and Related Agencies continued appropriation hearings. Testimony was heard from Members of Congress and public witnesses.

INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on Interior, Environment, and Related Agencies continued appropriations hearings. Testimony was heard from public witnesses.

EUROPEAN UNION—WEAPONS TRADE TO CHINA

Committee on Armed Services: and the Committee on International Relations held a joint hearing regarding U.S. national security and foreign policy implications of arms exports to the People's Republic of China by member states of the European Union. Testimony was heard from R. Nicholas Burns, Under Secretary, Political Affairs, Department of State; Peter Rodman, Assistant Secretary, International Affairs, Department of Defense; and Peter Lichtenbaum, Acting Under Secretary, Industry and Security, Department of Commerce.

DOD ROTORCRAFT PROGRAMS

Committee on Armed Services: Subcommittee on Tactical Air and Land Forces held a hearing on the Fiscal Year 2006 National Defense Authorization budget request on the Department of Defense's major rotorcraft programs. Testimony was heard from the following officials of the Department of Defense: William Balderson, Deputy Secretary of the Navy (Air Programs), Department of the Navy; BG Martin Post, USMC, Assistant Deputy Commandant for Aviation; David Duma, Acting Director, Operational Test and Evaluation, Office of the Secretary; MG Robert Bishop, Jr., USMC, Assistant Deputy Chief of Staff, Air and Space Operations; and BG Jeff Schloesser, USA, Director, Army Aviation Task Force.

HEAD START

Committee on Education and the Workforce: Subcommittee on Education Reform held a hearing on The Best of Head Start: Learning from Model Programs. Testimony was heard frompublic witnesses.

SATELLITE COMMUNICATIONS PRIVATIZING

Committee on Energy and Commerce: Subcommittee on Telecommunications and the Internet held a hearing

entitled "The ORBIT Act: An Examination of Progress Made in Privatizing the Satellite Communications Marketplace." Testimony was heard from Donald Abelson, Chief, International Bureau, FCC; JayEtta Z. Hecker, Director, Physical Infrastructure, Office of Congressional Relations, GAO; and public witnesses.

NATIONAL FLOOD INSURANCE PROGRAM

Committee on Financial Services: Subcommittee on Housing and Community Opportunity held a hearing entitled "Review and Oversight of the National Flood Insurance Program." Testimony was heard from David Maurstad, Mitigation Division Director and Flood Insurance Administrator, Emergency Preparedness and Response Directorate, Department of Homeland Security; William O. Jenkins, Jr., Director, Homeland Security and Justice, GAO; Alfred W. Redmer, Jr., Commissioner, Insurance Administration, State of Maryland; and public witnesses.

FIRST RESPONDER FUNDING

Committee on Homeland Security: Held a hearing entitled "Grant Reform: The Faster and Smarter Funding for First Responders Act of 2005." Testimony was heard from Lee H. Hamilton, Vice Chair, National Commission on Terrorist Attacks Upon the United States; and public witnesses.

DEPARTMENT OF HOMELAND SECURITY—STRENGTHEN INFORMATION SECURITY

Committee on Homeland Security: Subcommittee on Management, Integration, and Oversight held a hearing entitled "The Need to Strengthen Information Security at the Department of Homeland Security." Testimony was heard from Steven I. Cooper, Chief Information Officer, Department of Homeland Security; Gregory C. Wilshusen, Director, Information Security Issues, GAO; and public witnesses.

STATE DEPARTMENT MANAGEMENT INITIATIVES FUNDING

Committee on International Relations: Subcommittee on Africa, Global Human Rights, and International Operations held a hearing on Foreign Relations Authorization for FY 2005–2006: Department of State Management Initiatives. Testimony was heard from the following officials of the Department of State: Christopher B. Burnham, Acting Under Secretary, Management; and Louise Crane, Vice President, American Foreign Service Association.

AVERTING NUCLEAR TERRORISM

Committee on International Relations: Subcommittee on International Terrorism and Nonproliferation held a hearing on Averting Nuclear Terrorism. Testimony was heard from R. James Woolsey, former Director, CIA; and public witnesses.

OVERSIGHT—FISHERIES CONSERVATION

Committee on Resources: Subcommittee on Fisheries and Oceans held an oversight hearing on the Relationship between the Magnuson-Stevens Fishery Conservation and Management Act and the National Environmental Policy Act. Testimony was heard from Dinah Bear, General Counsel, Council on Environmental Quality; William T. Hogarth, Director, National Marine Fisheries Service, NOAA, Department of Commerce; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Resources: Subcommittee on National Parks held a hearing on the following bills: H.R. 432, Betty Dick Residence Protection Act; H.R. 481, Sand Creek Massacre National Historic Site Trust Act of 2005; and H.R. 1492, To provide for the preservation of the historic confinement sites where Japanese Americans were detained during Work War II. Testimony was heard fromRepresentatives Thomas, Udall of Colorado and Honda; Michael Snyder, Acting Deputy Director, National Park Service, Department of the Interior.

MATH AND SCIENCE TEACHING AWARDS

Committee on Science: Held a hearing on the 2004 Presidential Awardees for Excellence in Mathematics and Science Teaching. Testimony was heard from public witnesses.

ESTATE TAX AND THE ALTERNATIVE MINIMUM TAX—SMALL BUSINESSES INEQUITY

Committee on Small Business: Subcommittee on Tax, Finance and Exports held a hearing entitled "The Estate Tax and the Alternative Minimum Tax—Inequity for America's Small Businesses." Testimony was heard from public witnesses.

FAA TRANSPORTATION

Committee on Transportation and Infrastructure: Subcommittee on Aviation held an oversight hearing on Transforming the Federal Aviation Administration: a Review of the Air Traffic Organization and the Joint Program Development Office. Testimony was heard from the following officials of the Department of Transportation: Jeffrey N. Shane, Under Secretary, Policy; and Kenneth Mead, Inspector General; Gerald L. Dillingham, Director, Physical Infrastructure Issues, GAO; and a public witness.

OVERSIGHT—NATIONAL PREPAREDNESS SYSTEM

Committee on Transportation and Infrastructure: Subcommittee on Economic Development, Public Buildings and Emergency Management held an oversight hearing on The National Preparedness System: What are we preparing for? Testimony was heard from the following officials of the Department of Homeland Security: Corey D. Gruber, Associate Director, Office for Domestic Preparedness; and Gil Jamieson, Director, NIMS Integration Center; and public witnesses.

U.S. CHINA ECONOMIC RELATIONS

Committee on Ways and Means: Held a hearing on United States-China Economic Relations and China's Role in the World Economy. Testimony was heard from Representative Sanders; Kristin J. Forbes, member, Council of Economic Advisers; Charles W. Freeman, III, Assistant U.S. Trade Representative, China Affairs; Douglas Holtz-Eakin, Director, CBO; and public witnesses.

TAX SEASON/IRS BUDGET

Committee on Ways and Means: Subcommittee on Oversight held a hearing on 2005 Tax Return Filing Season and the IRS Budget for Fiscal Year 2006. Testimony was heard from Mark W. Everson, Commissioner, IRS, Department of the Treasury; James R. White, Director, Tax Issues, GAO; and public witnesses.

GLOBAL UPDATES BRIEFING

Permanent Select Committee on Intelligence: Met in executive session to receive a briefing on Global Updates. The Committee was briefed by departmental witnesses.

ENERAL DEFENSE INTELLIGENCE PROGRAM BUDGET

Permanent Select Committee on Intelligence: Met in executive session to hold a hearing on General Defense Intelligence Program (GDIP) Budget. Testimony was heard from departmental witnesses.

Joint Meetings

VETERANS' LEGISLATIVE PRESENTATIONS

Joint Hearing: Senate Committee on Veterans' Affairs concluded joint hearings with the House Committee on Veterans' Affairs to examine legislative presentations of certain veterans' organizations, after receiving testimony from William A. Boettcher, AMVETS, Lanham, Maryland; James Cooper, American Ex-Prisoners of War, Arlington, Texas; Thomas H. Corey, Vietnam Veterans of America, Silver Spring, Maryland; Colonel Robert F. Norton, USA (Ret.), and John Class, USN (Ret.), both of Military Officers Association of America, Alexandria, Virginia; and Brigadier General Leslie E. Beavers, USA (Ret.), National Association of State Directors of Veterans' Affairs, Baton Rouge, Louisiana.

ECONOMIC OUTLOOK

Joint Economic Committee: Committee concluded hearings to examine the current economic outlook for April 2005, after receiving testimony from Harvey S. Rosen, Chairman, and Kristen J. Forbes, Member, both of the Council of Economic Advisers.

RELIGIOUS COMMUNITIES IN RUSSIA

Commission on Security and Cooperation in Europe (Helsinki Commission): Commission concluded a hearing to examine problems experienced by unregistered religious communities operating within the Russian Federation, after receiving testimony from John V. Hanford, III, Ambassador-at-Large for International Religious Freedom, Department of State; Lawrence A. Uzzell, International Religious Freedom Watch, Fishersville, Virginia; Paul Goble, University of Tartu, Estonia; Boris Perchatkin, American-Russian Relief Committee, Washington; Andrew Okhotin, Independent Christian Baptists, Massachusetts; Sergei Cherpanov, Jehovah's Witnesses, Russia.

COMMITTEE MEETINGS FOR FRIDAY, APRIL 15, 2005

(Committee meetings are open unless otherwise indicated)

Senate

No meetings/hearings scheduled.

House

No committee meetings are scheduled.

Next Meeting of the **SENATE**

9:30 a.m., Friday, April 15

Senate Chamber

Program for Friday: Senate will continue consideration of H.R. 1268, Emergency Supplemental Appropriations.

Next Meeting of the **HOUSE OF REPRESENTATIVES**

2 p.m., Monday, April 18

House Chamber

Program for Monday: The House will meet in pro forma session at 2 p.m.

Extensions of Remarks, as inserted in this issue

HOUSE

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