The Senate met at 9:59 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. Thurmond].

PRAYER

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

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

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

PLEDGE OF ALLEGIANCE

The Honorable Jim Bunning, a Senator from the State of Kentucky, led the Pledge of Allegiance, as follows:

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

RESERVATION OF LEADER TIME

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

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER. The Senator from Alaska.

SCHEDULE

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

ORDER OF PROCEDURE

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

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

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

ELMER RASMUSON

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

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

Elmer served Alaskans in both the public and private realms. He was a successful banker who put together Alaska's first system of statewide branch banking. That wasn't an easy thing to do in a wild, far-flung territory like Alaska with four time zones,

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

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

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

Elmer brought his knowledge of fisheries management to the U.S. Arctic Research Commission, a position
that President Ronald Reagan appointed him to fill in 1988. He served in that position with great distinction, to the benefit of Alaska and the entire Nation. We will long remember the benefits from his legacy of continuing philanthropy. Elmer hired me back in 1959, my first job in banking. I worked for him as a branch manager at one of the small offices in Anchorage and later throughout offices in southeastern Alaska. I remained close friends through the 40 years that followed. His son Ed and his wife Cathy have shared many memories and good times with both Nancy and me.

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

It is important to add that Elmer was generous in many other ways other than his wealth. He gave his time and effort to civic groups, including the Boy Scouts. There is no saying that the true meaning of life is to plant trees under whose shade you do not expect to sit. That is the true test of generosity. By that measure, Elmer Rasmuson was an extraordinary individual in his generosity. That is why Elmer’s memory lives on for generations to come. They, as Nancy and I, will miss him greatly.

IVETTE FERNANDEZ—MISS ALASKA USA 2001

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

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

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

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

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

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

NATURAL GAS

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

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

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

A TRIBUTE TO SENATOR SLADE GORTON

Mrs. MURRAY. Mr. President, as we all know congressional lame duck sessions following an election are a rarity. They usually arise when Congress is terminated trading, for a portion of the worst news from the United States are treated by gas.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Despite Washington, DC’s strong desire to label us all, SLADE was always respectful and we found a way to reason together. And with his leadership, we often surprised people. Throughout his career in both Washingtons, SLADE defied labels.

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

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

We worked together to clean up the Hanford Nuclear Reservation. We were part of the effort to protect Washington State’s natural resources. We worked together on the Magnuson-Stevens Act in 1996 and the American Fisheries Act in 1998. We recently worked together to pay tribute to a Nisei veteran and Washington State native William Kenzo Nakamura by naming a courthouse after him in Seattle, Washington.

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

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

Senator Gorton and I also worked closely on health care issues important to our constituents. We worked together to boost the growing biotech sector in our State and the promising future that companies like Immunex and others are building in Washington State. From securing research dollars to the Space Station Freedom to the University of Washington School of Medicine, Washington State’s health care needs were well served by the work of Senator Gorton. Here, like in so many areas, he had an impact for the benefit of our State and our country.

He was a friend and mentor to me and I regularly worked with him to expand health care for children.

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

The work Senator Gorton himself contributed to his team’s wins. It was a friendly rivalry that I am sure SLADE and I both really wanted to win that game.

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

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

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

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

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

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

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

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

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

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

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

This morning, as I contemplated what I could say about him, a passage of scripture came to mind: “Let your light shine before men, so that they may see your good and glorify your Father, which is in heaven.”

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

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

Like Slade, I have known victory and defeat in running for the Senate. I had no greater friend when I first ran in 1976. I was nearly the one by which he has now lost, I also lost. I remember his letter so vividly the time he wrote that letter because he had worked so hard for me. It came a few days after my defeat. He said how no defeat for a Senator’s race had no greater friend when I first ran for another term. It is a hard decision, but I know, as he knows, that in democracy you do not always get to win, but you always get your say. I hope the day will come, in a different forum, perhaps, when Senator Slade Gorton will have his say again.

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

The PRESIDING OFFICER. The Senator from Washington.

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

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

Over the years, Senator Slade Gorton has been a great leader on educational reform, striving to raise the performance of our nation’s elementary and secondary schools and the quality of education so that all children may reach a high level of academic achievement. As the senior Senator from Washington, I know we have shared the same commitment to faith, family, service, and law. As he leaves this body, I want to express my greatest respect and affection for Slade Gorton.

Of great importance to our country are Slade Gorton’s continued efforts to preserve America’s culture as Americans. I have worked together on a number of proposals to improve our educational system. His contributions have led the way for better educational accountability and innovation in the years ahead.

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

Slade took the lead in guiding us to a dignified, fair, and dignified path, formulating a plan that ultimately formed the basis of the process the Senate adopted. Notwithstanding his personal views, his love for his country and this institution led him to above partisanship and to formulate a plan for resolving the impeachment case before it wreaked more havoc on the Senate and the nation. I was delighted to work with him, and was impressed again by the civilized, thoughtful, and nonpartisan way in
which Slade Gorton proceeded. I truly believe that his leadership was instrumental in seeing the Senate through that difficult time with honor.

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

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

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

STATEMENT BY SENATOR MURRAY IN TRIBUTE TO SENATOR SLADE GORTON

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

Washingtonians regardless of party affiliation will come to me with high praise and appreciation for Senator Gorton’s long service to our state, our country and this proud institution. I want to share with my colleagues a passage from an editorial this week in the Everett Herald. The Herald editorial reads, ‘History will rank Gorton with Senator Henry M. ‘Scoop’ Jackson and Senator Murray as an extraordinary leader in D.C. on behalf of the state. Throughout his career in the Senate and state government, Gorton has been a leading force in many major efforts to protect the environment. He also has been a consistent, passionate advocate for individuals with problems dealing with bureaucracy. Within the Senate, Gorton has been a grand force for reasoned bipartisanship, never afraid to take a strong stand but also willing to work graciously and effectively with members of the opposition even at the tensest moments.”

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

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

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

In 1969, Slade was elected Attorney General of Washington state. On numerous occasions on several historic cases, Slade represented the people of Washington before the Supreme Court of the United States. Senator Gorton’s service before the Supreme Court of any Attorney General in America.” He was also recognized with the prestigious Wyman Award given to the outstanding Attorney General in the United States.

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

All of this is offered as a brief history of Slade’s many years of service. With time, there will be a number of tributes to Senator Gorton. But what I’d like to focus on now is our time together in the United States Senate and the work we were able to do together these many years.

I am sure all of my colleagues share my own appreciation for the support, guidance and sacrifices our families make so that we can serve in these positions in so many ways. Slade is fortunate to have such a supportive family. Sally and Slade have been partners for all of his years of service. From Olympia, Washington, to Washington, D.C., Sally Gorton has been there each and every day. She and Slade have become home to you constituents like I din, who I know bring immense pride to the Gorton family. So, as we acknowledge and honor Slade Gorton, I want to pay special tribute to Sally Gorton and the entire Gorton family.

Much has been said in Washington state about the differences between Senator Gorton and I, and we have had our differences, not enough has been said about our ability to work together on behalf of Washington state. He was a champion for Washington state. When the interests of Washington state were at stake, we were a great team. I will miss our ability to work together in a bipartisan fashion to strengthen our great state.

As my colleagues know, there is no greater adversary in the United States Senate than Slade Gorton. Senator Gorton and I were rarely political or personal. We were always able to move on to the next issue of importance to our constituents.

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

Slade Gorton also fought for the United States Senate. When the Congress was struggling through a very partisan impeachment process, it was Slade Gorton who along with our colleague Senator Joe Lieberman stepped forward with a plan for the Senate. When the interests of Washington state were at stake, we were a great team.

Much has been said in Washington state about our ability to work together on behalf of our constituents. Senators on both sides of the aisle have come up to me with high praise and appreciation for Senator Gorton’s long service to our State of Washington.

For my wife and myself, I send Slade and Sally and their wonderful family love and every wish for the next great chapter of their lives. I believe that his leadership was instrumental in seeing the Senate through that difficult time with honor. Unfortunately, a tragedy in Bellingham, Washington, claimed three young lives yesterday. Slade Gorton was there right there with me from the very beginning, working to raise the profile of the issue and eventually to pass through the Senate the toughest pipeline safety legislation ever adopted by either body of Congress. Senator Gorton was instrumental to this effort. Working together, we took on some very powerful interests and extracted tough compromises.

At the Appropriations Committee, Senator Gorton and I teamed up in numerous instances to research and evaluate and protect Washington’s many interests from agriculture research programs benefitting apple growers and wheat farmers to export programs and land runoff.

Washington was fortunate to be the only state whose two senators both served on the Appropriations Committee. Of course, Slade chaired the Interior Subcommittee where Washington has so many interests. We worked together to clean up the Hanford Nuclear Reservation. In the effort to ease the Puget Sound area’s very difficult traffic congestion problems at the Transportation Subcommittee where we both served.

Beyond the Appropriations Committee, there are so many other issues that we worked well together on behalf of Washington state. Congressman Murray has been an immensely important to our state and we worked closely on the Magnuson-Stevens Act in 1996 and the American Fisheries Act in 1996. We recently worked together to pay tribute to a Nisei veteran and Washington state native William Kenzo Nakamura by naming a courthouse after him in Seattle, Washington.

We worked collaboratively on selecting Federal judges in a time when confirming judges was overly politicized and in getting our judges through this difficult process by working together.

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

Senator Gorton and I also worked closely on health care issues important to our constituents. Senator Gorton was a champion for the growing biotech sector in our state and the promising future that companies like Immunex and others are building in Washington state.

And I was proud to work with Senator Gorton on research dollars to representing the UW Medical School, Washington state’s health care needs were well served by the work of Senator Gorton. How so many of our colleagues made significant and positive impact on our state. He was a champion on autism issues, and I regularly worked with him to expand health care for all.

Effective leaders attract talented people to their offices and Senator Gorton has always had a very effective staff both in Washington, D.C., and throughout the State of Washington. He has served as a mentor to literally thousands of professionals. The family trees of Gorton staffers past and present is truly impressive list of Washingtonians. One of Senator Gorton’s greatest and last contributions to our state will be the number of professional former staffers will give to Washington state.

My staff and I have worked closely with Senator Gorton’s staff. That working relationship was always an annual softball game that could be as competitive as any Apple Cup football game between

Most recently, Senator Gorton and I worked very closely on the issue of pipeline safety. Fortunately, a tragedy in Bellingham, Washington, claimed three young lives yesterday. Slade Gorton was there right there with me from the very beginning, working to raise the profile of the issue and eventually to pass through the Senate the toughest pipeline safety legislation ever adopted by either body of Congress. Senator Gorton was instrumental to this effort. Working together, we took on some very powerful interests and extracted tough compromises.
Jim Ellis credits Gorton with steering toric time in the nation's Capitol. This is certainly a time of change for the country and for the Senate. And while Senator Gorton will leave the Senate, we shouldn't expect to see him fade from the public scene. At home, he will continue to be a respected leader with many opportunities ahead to further shape and influence our state. And perhaps his service in Washington, D.C., will continue as well. I am confident—just a few more years and the Greyhound bus—that Senator Gorton will make the most of the new opportunities to come. Senator Gorton, on behalf of the people of Washington state, thank you for your many years of dedicated service. Thank you for giving your time, your energy, and your wisdom to that state and our country. We have benefitted enormously from your work and we are grateful for your service.

Gorton's career was certainly marked by tough fights with opponents and a willingness to criticize liberals from the Puget Sound to the detriment of the state's biggest city. He was accused of using so-called wedge issues that divided the state.

Senator Gorton will leave the Senate, we believe in his work and that they will always be proud of the senator from Seattle and the state of Washington. We attempt to place our politicians in perspective because people should have a chance. It's Slade Gorton's turn now. The 72-year-old U.S. senator's defeat will become official Wednesday.

But he was pretty sure when the first count of votes was released the day before Thanksgiving when he declared himself "cautiously pessimistic" that a recount would make no difference in the outcome.

Gorton has served three terms as Senator. He was first elected in 1958. He served 10 years in the state House of Representatives, 12 as attorney general and 18 in the U.S. Senate.

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

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

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

He wasn't wildly popular. He wasn't able to generate affection among voters. He wasn't able to bring into being the sort of economy that brought war-time jobs or the sort of growth that has always drawn criticism—despite his best efforts to bring it about. He didn't. Last Friday the county-by-county tally showed that Democrat Maria Cantwell's lead actually grew by a few hundred votes.

So Gorton walked in front of the cameras and the newsies to make a very short statement. He took a deep, slow breath, held it a second longer than usual and said:

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

Legacy is not a notion that comes easily to Gorton. But time passed, and what was the legacy of his years in public service, he groped for a response. Perhaps that's because Gorton's career was not a straight line toward clear goals or major accomplishments.

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

A careful look at the sweep of his career reveals Gorton's better impulses. He is credited with helping to save the National Endowment for the Arts and the Forest Legacy Program, a crucial source of funds for the National Endowment for the Arts and the Forest Legacy Program. It was a time when the ability to win hundreds of millions of federal pork was at an end.

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

And perhaps his service in Washington, D.C., will continue as well. I am confident—just a few more years and the Greyhound bus—that Senator Gorton will make the most of the new opportunities to come. Senator Gorton, on behalf of the people of Washington state, thank you for your many years of dedicated service. Thank you for giving your time, your energy, and your wisdom to that state and our country. We have benefitted enormously from your work and we are grateful for your service.

Gorton was one of the saner voices in Congress during the impeachment. He teamed with his friend, Democratic Sen. Joseph Lieberman, to broker a middle-ground solution that split the circuit. The result was the North-South Agreement to reform impeachment proceedings.

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

Among his most loyal backers is a small army of women who have worked for Gorton at various stages of his career. Many have gone on to their own careers in public life.

Gorton's name is attached to several major accomplishments from the early years of his career: Representative of Seattle and the state of Washington, the Stoddard Act, the Graduate Tax Act, the Northwest Water Quality Act, the ecosystem management and a host for a children's TV show.

As a legislator he was more pragmatic than ideologue: everyone understands that Gorton has been a consistent, passionate advocate for the state's seniors, for those with problems dealing with bureaucratic red tape. Senator Gorton. Although Gorton would have held as a senator with 18 years seniority. Senator Gorton. Although Gorton would have held as a senator with 18 years seniority. Senator Gorton. Although Gorton would have held as a senator with 18 years seniority. Senator Gorton. Although Gorton would have held as a senator with 18 years seniority.

But in the same time period, eight different Democrats have been a leading force in many major efforts, most notably the Northwest Water Quality Act, the Graduate Tax Act, the ecosystem management and a host for a children's TV show.

Gorton himself contributed to his team's wins. It was a friendly rivalry, but I think Slade will tell you, we both really wanted to win the job.

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

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Sound region. That divisiveness, in fact, may have contributed to his defeat by Cantwell. But he helped ensure that the less urban areas of the state weren’t forgotten.

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

Cantwell has talked about the need for action on issues that relate directly to people’s lives, including prescription drugs and controls on high-powered, maintenance organizations.

With her incisive understanding for policy issues, demonstrated in both the state Legislature and the U.S. House of Representatives, she could help create answers to such difficult questions.

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

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

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

The PRESIDENT pro tempore. The Senator from West Virginia, Mr. ROCHELLE.

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

I worked with SLADE very closely on the Commerce Committee. Our jurisdic-tions overlapped a good deal. Our interests overlapped a good deal. One of the pieces of legislation where I thought you saw SLADE working at his best, when he was so effective in the Senate, was the reauthorization of the Federal Aviation Agency.

This was actually a very complicated piece of legislation. It was one that was particularly difficult because the Senate as a whole has not bothered to engage itself particularly with the whole subject of aviation and the enormity of the crisis which is facing us and which manifests itself in the summer and tourist season and then is quickly forgotten as soon as the tourist season is over and the delays diminish somewhat. One can see, as the industry grows, the growing number of more severe problems, financially and otherwise.

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

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

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

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

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

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

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

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

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

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

When we talked personally, it was almost always about his grandchildren; of course, about Sally, his wife, whom I am the married to. In 1998 he has seven grandchildren, and when there was frustration about the Senate dragging on too long, he would talk about the joy of being with his grandchildren. He talked at length about that. That was another side of SLADE GORTON; SLADE GORTON the family person, the tightly disciplined mind, and yet underneath a very warm sense of what, in many ways, is an even larger legacy, and that is, what is the nature of one’s family, what is the nature of one’s relationship to the members of one’s family. I express my respect for him, my affection for him for his constancy of purpose and for his superbly honed
skills. His presence in the Senate is and will be always considered unique. He is a unique person, cerebral but effective, highly analytical but deeply effective in the internal combat, whether it be on the Appropriations Committee, the Budget Committee, the Commerce Committee, or anything of his various committees. He knows how to fight. He knows how to achieve what he wants for the people of his State.

As I said at the beginning, I rise to express this respect, to express this sense of admiration for the nature of his abilities as a Senator and his broad expance as a human being.

I thank the Presiding Officer and yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

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

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

Mrs. MURRAY. Mr. President, I am happy to yield to the Senator from New Mexico whatever time he needs to speak about the departure from New Mexico of SLADE GORTON.

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

Mr. President, I come this morning to speak about my friend, SLADE GORTON, who is leaving the Senate shortly. I thought I better do it today because, as most things around here, when you can get them done you ought to do it. As most things around here, when you ought to do it today because, as most things around here, when you can get them done you ought to do it. As most things around here, when you can get them done you ought to do it.

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

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

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

From my own standpoint, I have had one major commitment, one major user of my time in my work, and that is to understand and make sense of the U.S. budget. While it is not my only job, it is one of those the Senate expects somebody to know a lot about if they are going to come down here and talk. They have to know their work in that committee since its origin, believe it or not. It is a rather new committee, enforcing a rather new part of the Senate. We used to have just authorizing and appropriations, and some 25 years ago we had budgeting. He has been on the Committee with me through thick and thin.

Everybody should know that we did a lot of innovative things in that Committee. We rather imaginatively broadened the scope of legislation, so we can insist that things get done without being burdened by filibuster and untold amendments. We have done new and innovative things to set aside money for only one purpose and it cannot be used for anything else. These are all unique and different, along with regular routine things.

It did not take very long, once these issues were put on the table and discussed, for SLADE GORTON to understand that the best way of improving them. That is the way he is with everything he does. He does not have to be the kingpin, but I guarantee you, those who are and who are forced to lead, if he is around helping them, you can just tell; You can see the imprint, the logic, the strength of argument that comes from him being directly involved or indirectly being a helper.

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

But if it is looked at carefully, SLADE GORTON has to come out near the top of the list of influential Senators in the conduct of occurrences of significance in the Senate. I am not sure how that will be picked up because much of it occurs in meetings that are not public, not private meetings but meetings that are not just known because they are in the leader's office or a committee room.

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

Individually, from my standpoint, he has been at my side every time we have had major events on the floor that I have had to manage. There have been 18 years; they have been long, and they have been arduous.

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

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

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

You have brought from your State a degree of pride to the Senate that is very difficult to replace. Far be it from
me to judge any other Senator from any other State or even his own State, but Senator SLADE GORTON will be here a long time in memory because many will know what he thought about the Senate and how he thought about us.

It is hard to believe that Senator SLADE GORTON will not be down here at that seat, arguing with us on important issues. But he will be here because I cannot imagine that people who lived and worked with him all these years—I see one here on the floor, the distinguished chairman of the Appropriations Committee. I know about him, a way of approaching the Senate and how he thought about us. He especially understands imaginative. He has true love for this institution. He knows about it very well—will forever get him, and we will not let the Senate forget.

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

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

The PRESIDING OFFICER. Three minutes.

Mrs. MURRAY. Mr. President, how much time does the Senator from New Hampshire need?

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

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

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I temporarily object.

The PRESIDING OFFICER. Is there an objection?

Mr. STEVENS. I withdraw my objection.

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

The Senator from New Hampshire is recognized for 5 minutes.

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

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

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

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

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

He is truly an effective tactician, but more importantly, he is an effective talker to get ideas. We talked about his family that he so loved, Sally and his children, his grandchildren, his nieces, nephews. He used to go to hockey league for his niece all the time. She is a wonderful hockey player. He is totally committed to his family.

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

This is not a eulogy. We have a number of Members of the Senate who are leaving us, distinguished people who have given immense public service to this country. I have deep admiration and respect for all of them. Because my colleague from the State of Washington was talking about her colleague, I wanted to come over and say a word about Senator GORTON.

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

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

He actually was elected to the Senate for the first time the same year I was elected to the U.S. House in 1980. We had an opportunity to be on a panel discussion way back in 1980 and talked about our entry into that Congress. One of the things SLADE GORTON told me was that he had bicycled across North Dakota. I was surprised by that, but apparently he and his family had bicycled all across America. And in doing so, they had bicycled across I-94 or highway 2 through the State of North Dakota. We had a chance to talk a little about his acquaintance with North Dakota from a bicycle.

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

I will come to the floor at some point to speak about the other Senators who
have contributed so much and who are now leaving the Senate Chamber.

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

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

The Senator from Alaska.

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

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

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

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

It is and has been a matter of great pride for me to call Slade and Sally Gorton personal friends. I have visited with them. We have traveled together to other places in the world. It is highly necessary for Members of the Senate to travel and try to learn firsthand the problems of other continents, such as Antarctica, Australia. I remember we went to eastern Russia, and we have traveled together into the NATO countries together. It is on those trips that we really get to know one another even better than we do in the Senate in Washington.

Of course, my friend and I have been able to meet as I have gone through his State. Alaskans go through eastern Utah, Illinois, or Washington to get home from Washington, D.C. Quite often, I have spent time in Washington State and have visited with Slade Gorton about the problems of our area. He has been a fierce protector of the interests of the State of Washington in the Senate. As a westerner, he and I have shared many issues and faced the problem of finding solutions to some of these difficulties that we face in the Pacific Northwest together. We have worked with our friend, Senator Murray, on these issues. I think we have had a good working team together.

We Senator Murray, the Members of the Pacific Northwest group in the Senate, had to go head to head with almost every Member of the Senate and the administration to try to protect the interests of the Pacific Northwest. We are an area that many people do not understand. It is an area that requires an enormous amount of personal contact with our constituents in order to make certain we are on the right track.

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

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

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

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

I know they will be going back to Washington. And I think we will hear a great deal of Slade Gorton and Sally. They have concerns about the country and concerns about our area that are unique. I believe they are going to continue to have a great influence on the problems that I mentioned before.

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

I don't look forward to making statements such as this. I certainly don't look forward to losing the partnership I have had with the Senator from Washington, Slade Gorton, in dealing with the problems of the Pacific Northwest.

I thank the Senate. The PRESIDING OFFICER. The Senator from Montana is recognized.

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

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

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

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

As you know, for those who do not study history and have little or no institutional knowledge of our country and the way it was built, one has to remember that we make decisions based on history and it affects all of us in the future. I have often said those folks who tend to revise history also tend to tinker with the compass of our Nation, because our decisions are still based on history. Slade, being the bright and honest man that he is, understands this is fine. If you don't like it, well, that's the way it is. Slade Gorton, being the bright and honest man that he is, understands this and he will continue to do what he knows is fine. If you don't like it, well, that's the way it is.
said, ‘That is a long trip, SLADE.’ He said, ‘It was. We spent all of it in Montana.’ It is a very long State. In fact, from the Yaak to Alzada, MT, it is further than it is from Chicago to Washington, DC, as the crow flies.

But I’m talking about something about the man, and it also tells you something about the family.

Nobody in this body has fought harder for property rights, the cornerstone of a free society; fought harder for States’ rights; and fought harder for what he offered in education to take the money that flows from what I call ‘17 square miles of logic-free environment’ to the local communities to let the local communities decide how to use that money. If they need teachers, they could hire teachers. If they need bricks and mortar, they could build. But the decisions on how to use those dollars at the local level should be made at the local level to fill their needs. Nobody fought harder for that.

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

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

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

We don’t say goodbye to our friends, we just say so long, because our trails will cross somewhere out there, and that is the friendship forged between the Gortons and I will never be forgotten. We will miss him, and we wish him well. But his influence on this body will be felt for years to come.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

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

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

SLADE GORTON, we would agree by almost acclamation, is one of the smartest Members of the Senate. But he is more than that. He is wise. He has the ability to recognize when something is important and when it should be pushier. That represents a potential consensus; but he has the judgment in knowing, in pushing for the things he is for. In the end, it is seldom good policy and it seldom makes good public policy to run over people.

I say to our colleagues, SLADE GORTON is one of the most extraordinary men who has served in the Senate during my tenure in the Senate. He will be missed here. I believe SLADE is the kind of guy that the founders had in mind when they wrote the Senate into the Constitution. I think SLADE GORTON in his record would stand up in a comparison to anyone who has ever served in this body or anyone who has served in any legislative body ever.

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

In my State, our greatest hero, our most beloved citizen, was defeated by the voters of Texas not once but twice. He was defeated the first time after he came close to casting the deciding vote, he was the deciding vote, on the Kansas-Nebraska Act which he saw as producing the Civil War. And it did. And then as Governor, Sam Houston said: Absolutely not. I have an opportunity to serve with him recently on a committee that Senator LOTT and Senator DASCHLE appointed to select two Senators to be added to the portraits just outside the door. For 40 years, slates of five that were designated as the five greatest Senators back in the early 1960s or in the mid-1950s. The thought was that we would add two more Senators to the list.

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

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

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

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

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

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

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

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

SLADE GORTON is one of the great Senators of the 20th century. He had a sense of humor and a sense of style. He had an opportunity to serve with him recently on a committee that Senator LOTT and Senator DASCHLE appointed to select two Senators to be added to the portraits just outside the door. For all of us for 40 years, slates of five that were designated as the five greatest Senators back in 1960s or in the mid-1950s. The thought was that we would add two more Senators to the list.

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

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

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

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

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

PRIVILEGE OF THE FLOOR

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

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

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

SERVING THE PEOPLE OF MISSOURI

Mr. ASHCROFT. Mr. President, it is with a sense of deep gratitude that I have this opportunity to speak on the Senate floor for one last time before I conclude my term in the Senate. There are few compensating factors for the lame duck session in which we find ourselves, but one is the opportunity for one who has lost an election to come back and make a few last remarks.

This sort of makes this like home. At home I always have the word—"Yes, dear." And to have a last word here is a pleasing thing for me.

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

America respects that understanding. This one hangs near the desk of America. But in America it is when people are compassionate and share the feelings of each other, and the value of respect, particular respect for those who have gone on and have been of service. In expressing those values, the people of Missouri decided they would honor the deceased Governor by voting in his behalf and in his stead in the election rather than voting for me, and I respect them for that and I honor them for that. It is a great community. They are a community to be loved and respected, and I profoundly love and respect them.

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

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

Early in my time in the Senate, I came to the floor of the Senate and professed in the Congressional Record this statement of service, commitment, and dedication that each member of my staff joined me in formulating. This one hangs near the desk of
Annie Billings in my office. I asked each staff member to sign this commitment and then I signed the commitment, too, so each one of these items contains the signature both of the staff, the real workers of the Senate, and the least important but the one who relied so heavily on their work, I did not want to set the standards for my office absent the staff's participation because I believed the staff would help me reflect profoundly the values of the people of Missouri—and, indeed, they did. Each member of my staff took the pledge, the pledge that is contained in this statement of service, commitment, and dedication—high standards of service.

Our pledge states, and I will read part of it: We dedicate ourselves to principled public policy. We believe that Americans are endowed by their Creator with certain unalienable rights, and among these are life, liberty and the pursuit of happiness. The power we exercise is granted by Missourians and the people of the United States. It is our duty, as I seek to lead by example, to serve with honor. We will represent the American people with dignity and respect, we seek to lead by our example. We will work with energy and spirit. We will strive to lead with humility and honesty. We will work with energy and spirit. We will represent the American people with loyalty and integrity. Our standard of productivity of our people. In this respect, we seek to lead by our example.

As people of liberty reach for opportunity and achieve greatness, our Nation prospers. A government that lives beyond its means and reaches beyond its limits violates our basic and very clear the Nation suffers. We dedicate ourselves to quality service. America's future will be determined by the character and productivity of our people. In this respect, we seek to lead by example. We will strive to lead with humility and honesty. We will work with energy and spirit. We will represent the American people with loyalty and integrity. Our standard of productivity of our people. In this respect, we seek to lead by example.

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

I thank the Members of the Senate. This is an institution that is unique. The function of the Senate is a very important, in other respects as a result of the relationships that come with the friendships in the Senate. I have the very, pleasing opportunity to think of myself as a friend of each Member of the Senate, and I am grateful for that. I am particularly grateful for the leadership that has been kind to me. For Senator LOTT—and, of course, I have had a lot of fun with Senator Lott as a Senator. That has ruined more than 1 day for other people—but the leader has been kind to me in every respect. His demeanor in leading this body is one of kindness to every Member.

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

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

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

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

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

An effort to repeal the Social Security earnings tax—the test on the Social Security earnings—which we were able to achieve in April of this year. But I go back to some of the specific legislation.

Tougher penalties for gun crimes: We put the amendment into Senator HELMS' law, which was moving through this body, for tougher criminal penalties for those who use guns in the commission of a crime, it could not have happened without Senator HELMS' measure. Of course, as the chairman of the Senate, I think of the late Senator Paul Coverdell and his efforts on education flexibility, sending resources to the State. I was thrilled to have the opportunity to work with him and Senator Wyden and Senator Frist on that legislation. It was very important legislation across the aisle, but it would have an impact across America.
Then on the legislation to end food and medicine embargoes, I think this is a major step forward for America—good foreign policy, good farm policy, and expresses the values of the people of this country. Working with Senator Dodd and Senator Bentsen, and on our side, Senator Hagel and Senator Roberts—and Senator Wellstone joined in that effort—the Senate overwhelmingly worked together to get that done. Now that it is a part of the law of this country, I think it is a major step in the right direction.

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

Over and over again, I think of things that happened this last year, such as when HCF A, the Health Care Financing Administration, announced new rules for reimbursing cancer care treatments. I thought of the millions of people around the country who lived in rural areas who would find their care curtailed. Senator Mack of Florida worked make sure we were able to begin the process of changing the law. And the process was so successful that HCF A changed its rules and regulations. Sometimes that is the way we make progress.

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

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

I had the privilege of chairing several subcommittees. I chaired two committees. I chaired the Africa Subcommittee of the Foreign Relations Committee and the Constitution Subcommittee of the Senate Judiciary Committee. I have to say, I have never had a better working relationship with any individual than with Senator Feingold in that respect. Never did he ask me to do something that I thought was right and fair and that I could not do and that I would not do. In each instance, when I offered him an opportunity to participate in a broad range of what the subcommittees were doing, he fulfilled his responsibilities with fairness, with dignity, with respect, and with the public interest as the uppermost criteria. I am grateful for that.

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

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

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

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

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

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

But dislocations are worth our effort. Perhaps the most important thing my father taught me was that there were more important things than me, and the ability to make sacrifices to get good things done is important. When we understand there are some things that are more important than we are, there is a willingness to make sacrifices.

I thank my family profoundly—my wife Janet, my sons Jay and Andy, my daughter Martha, my son-in-law Jim, and my grandson Jimmy. I thank them for being willing to understand that when there are things more important than we are, we can sacrifice those things and recognize in our lives our willingness to set aside our personal agenda for the public good.

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

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

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

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

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

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

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

It is a very melancholy time for me to rise today to pay my respects and honor and to offer sincerest thanks to a friend who is probably my closest colleague in political life. We have been through a lot together. I lost a couple races as well as winning some. I can tell you, it is not fun. In fact, it is really terrible. I know it what it is like.
After my last loss, a good friend came up to me and slapped me on the shoulder and said: Well, experience is what you get when you are expecting to get something else.

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

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

But there are a lot of other ideas, a lot of other fond memories that come back to me. When John Ashcroft followed me in the State auditor's office, he continued the effort to clean up the mess of the State auditor's office, something I chided him about frequently. He went on to be attorney general, my second term as Governor. During the first time, I had taken an involuntary vacation from the Governor's office. I had one of my experiences.

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

One of my favorite programs is Parents as Teachers. This is a wonderful early childhood program that has revolutionized early childhood education in Missouri. We managed to get it on the books and kind of bring it to life. But John Ashcroft was the one who funded books and kind of bring it to life. But Missouri. We managed to get it on the service. He has also represented and which I will discuss.

He has served his country and to the Senate. I appreciate having had the opportunity to work with him. I know him to be smart and tough and tenacious on the issues about which he cares deeply. I wish him well.

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

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

Those are important qualities which I think our colleague, Connie Mack, also represents and which I will discuss in a few moments. But I wish to extend my best wishes to Senator Ashcroft in his new life. I wish him the opportunity to serve with as a Governor, but I admire his service to the State of Missouri and to America in many ways. I wish him well for a happy, rewarding future.
Mr. GRAHAM. Mr. President, the Constitution of the United States provides that each State, regardless of other circumstances, will have two Members in the Senate. It says nothing about how those two Senators will get along. Sometimes they don't.

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

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

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

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

We went to the same college. We are both graduates of the University of Florida, and we share a deep, abiding respect for the alma mater which will symbolize and continue his deep commitment to the work of science and health.

Our personal lives have also overlapped. We both had the good fortune of marrying substantially above ourselves. Adele, Priscilla, CONNIE, and myself have grown to be not only neighbors living across the street on Capitol Hill but also very close personal friends.

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

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

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

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

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

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

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

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

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

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

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

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

Senator MACK has always said it doesn't have to be that way. And he worked hard at getting us to that place. We were politics; instead, the problem is simply an American people are tuning out while we battle inside the beltway over issues that seem to affect no one other than ourselves.

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way that I describe as nonarrogant self-confidence. That is not an oxymoron despite how it may occasionally appear when this room is filled with enough hot air to melt the polar ice cap. Nonarrogant self-confidence is, in fact, a foundation for public service. Nonarrogant self-confidence is the product of sustained and diverse life experiences prior to and during a political career. It is the ability to look beyond one's world, to reach out to people of different races, different values, different backgrounds. It is not a person who wakes up every morning and puts his proverbial finger in the wind to see which way it is blowing and decides what his position will be that day. It is the quality of having the strength to hold well-grounded opinions and values, and yet to be open and persuadable in the face of new information and logical arguments. Nonarrogant self-confidence is the ability to be a leader in your party, but not necessarily a follower of the party line.

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

Now, few would argue that the process we have is cumbersome and, frankly, often dull. We rarely hear of someone setting up a VCR or rushing home after work to catch our latest pontifications on C-SPAN. But the seriousness of our work has added a vitality. Time and public debate are the key ingredients that go into solid, sustainable public policy. Legislating behind closed doors is breaking our promise to the American public, the promise that if they, the American people, made the effort, their voice would be heard and would influence public policy on Capitol Hill. The rules of this body rely on keeping promises in an informal way as well as formally. We must be able to trust that our colleagues will do as they say and vote as they claim to do. CONNIE MACK is a man of his word. He keeps his promise to his colleagues. He keeps his promise to the people of Florida.

CONNIE’s strength of character, his respect for this institution, and his ability to reach across party lines became apparent to me early in our time together in the Senate. Our service in the Senate overlapped with his last term in the House in 1983 and 1985. I must to know CONNIE when he came to the Senate after the 1988 election, when he won the seat that had previously been vacated by Senator, later Governor, Lawton Chiles. When the campaign was over, we vowed to work together. This has been an easy commitment to fulfill because CONNIE MACK is a fine person, as he is a fine representative of his State.

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

Senator MACK is devoted to his family. In fact, I have said that CONNIE and Priscilla Mack are living embodiment of family values. Adele and I have been honored to call the Mack family friends now for well over a decade. We have compared notes on our children and grandchildren. We have watched our families grow and grow up.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

SLADE GORTON

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

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

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

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

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

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

SLADE has also been an advocate for children’s health. Not only was he an early supporter of the Children’s Health Insurance Program, the SCHIP program, but he has also worked for years to increase Federal research dollars to help find cures for the many rare diseases that are also to be paid off because his autism bill was included this year in the omnibus children’s health bill which was signed into law last month. It will direct more
Federal dollars toward finding a cure and treatment for autism.

SLADE GORTON has had an impact on this Senate in so many ways. Whether it is serving as a valued mentor to more junior Senators, such as myself, or being an architect of very important legislation or shepherding appropriations bills through an incredibly difficult procedural morass, SLADE has been front and center in every debate in this Senate.

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

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

The PRESIDENT. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

The PRESIDENT. Without objection, it is so ordered.

AMERICAN HOMEOWNERSHIP AND ECONOMIC OPPORTUNITY ACT OF 2000

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

The PRESIDENT. The clerk will report the bill by title.

The senior assistant bill clerk read as follows:

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

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

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

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

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

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

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

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

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

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

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

Some of the provisions of H.R. 5640 are contained in bipartisan legislation, S. 2733, which I have introduced with my colleagues Senator SANTORUM, Senator SARBANES, and others. These are provisions that were not in the original draft of affordable housing for the elderly and disabled housing statute. These reforms provide important new solutions for owners of manufactured homes. For example, the bill creates national minimum installation standards to make sure manufactured homes are not just manufactured correctly—an area that we in the Senate had focused on—but that they are installed properly and perform as advertised to provide high quality, safe, durable, and affordable housing for their occupants.

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

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

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

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

However, as much as there is to welcome in this bill, it is as notable for what it does not include. Most importantly, this bill does not include any of the numerous bipartisan proposals, some of which passed the House with overwhelming majorities, that would provide for the proper preservation of existing affordable housing that is fast being lost; nor does it include any of the bipartisan proposals to facilitate the construction of new affordable housing. In particular, I very much regret the exclusion of the National Affordable Housing Trust Fund legislation that I introduced with a number of my colleagues from both sides of the aisle. Finally, it does not include some important provisions that would encourage and support mortgage lending to assist low-income but credit worthy individuals.

Everyone who has looked at the issue of housing with an open mind, or has tried to find a rent adequate to enable a working person to afford the typical rent on 2 bedroom home. In tight markets such as Boston, New York, Denver, Minneapolis-St. Paul, Austin, San Francisco, and many others around the country, affordable housing is out of reach to average working families.

The Federal Government has an important role to play here, and I will be working very hard in the upcoming Congress to see that new legislation, such as my trust fund legislation, that will get the Government back in the business of encouraging the production of new affordable housing.

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

Mr. GRAMM. Mr. President, today the Senate is taking up H.R. 5640, the American Homeownership and Economic Opportunity Act, which was passed by the House of Representatives on December 5, 2000. Companion legislation, sponsored by Senator ALLARD and myself together with Senators SARBANES, SANTORUM, GRAMS, SHEBY, CAMPBELL, and KERRY, was introduced on December 5. This legislation is the product of bipartisan work and negotiations in both bodies, and I urge the Senate to work on this bill today.

As Chairman of the Committee on Banking, Housing and Urban Affairs, I have had the privilege of working closely with Housing and Transportation Subcommittee Chairman AL-BARDS and want to express my appreciation for his strong leadership and commend him for the successful stewardship of this legislation.

The legislation we are considering today will improve and modernize a variety of federal housing programs. The proposed changes to our nation's housing laws will increase the efficiencies of subsidized housing programs and provide that a greater number of truly needy Americans may be assisted at no greater cost to the American taxpayer.

I am particularly pleased that this legislation includes the Manufactured Housing Improvement Act—signifying that this legislation is a cooperative product involving input from industry and other interested parties that successfully ends a 10-year legislative stalemate. The bill modernizes the requirements of the National Manufactured Housing Construction and Safety Standards Act of 1974, a 26-year-old statute in serious need of revision. Manufactured housing reform is of great importance to the State of Texas, which leads the nation in the production and sale of manufactured homes. Across America, manufactured homes are a valuable source of affordable housing—representing 25 percent of all new single-family housing starts. I also want to give special thanks to Senator SHEBY, the original lead sponsor of the manufactured housing bill, who has worked tirelessly over the years for its passage. Without Senator SHEBY's dedication and perseverance, the Manufactured Housing Improvement Act title of this bill would not be before the Senate for consideration today.

The American Homeownership and Economic Opportunity Act contains many other significant housing provisions, including modernization of the Department of Housing and Urban Development's, HUD, Section 202 elderly housing and Section 811 disabled housing programs; the Department of Agriculture's rural housing programs; HUD Native American housing programs; and the HUD home equity conversion mortgage program, which allows our cash-poor but house-rich senior citizens the opportunity to utilize their home equity for needed expenses.

This legislation also renews some 45 reporting requirements of Executive Branch and regulatory agencies, including the report of the Federal Reserve Board on the conduct of monetary policy.

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

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

Ms. COLLINS. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the Record.

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

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

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

Having chaired the Democratic Senatorial Campaign Committee for these years, I have known some of these Senators for many years, I have worked with them, some as adversaries. It is a peculiar and even awkward thing in the American political process that with people you like and admire, you can nevertheless have philosophical differences; you can have a political contest but nevertheless deal with them civilly.

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

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

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

Senator ROTH of Delaware, who I did not know well personally but who cleverly served this institution with distinction for a long time, changed many of our laws and much for the better.

Senator ASHCROFT, who as well served with me on the Judiciary Committee, is a gentleman, is a fierce advocate for his point of view, and is a skilled man who dealt in a campaign in different endeavors—a giant of the institution, who in his wake clearly made it a better place. There is not a finer or greater Senator. He is a great advocate for his colleagues.

Senator GRAMS of Minnesota, I believe, too, worked hard gaining the respect of his colleagues.

Senator GORTON of Washington State, who served his State for so very long and so ably, I believe, was a tremendous Member of this institution. Although he did lose an election and is also leaving this institution, he is one of my favorite members of the other party.

CONNIE MACK, who I served with in the House of Representatives, is an extraordinary Senator and a great gentleman who has made enormous contributions to the Congress and to the United States.

People who I have also come to meet as adversaries through the electorate process I want to join in welcoming to the Senate. They are both fierce advocates and great campaigners, who defeated my party in the fields of political contest.

Former Congressman ENSIGN, who joins us as a Senator from Nevada, will be a fine Senator. He is a great advocate for his State, and is an impressive individual who I believe will serve with distinction in the Senate.

Governor ALLEN, who was engaged in one of the most competitive Senate contests in the country, has served with distinction as a Governor, and I believe he will be an extraordinary Senator.

I welcome them to the institution. Despite an evenly divided Senate, there are real differences on fundamental issues as to how the Nation should approach education and health care, gun safety, and the use of the budget surplus. These issues are real. Our differences have meaning. Sometimes differences are deep. But our objectives are common; that is, to serve the country, to have the Senate act with distinction, and ultimately—simply—the most obvious goal of all—to help ordinary people in our country who live sometimes quiet lives, usually content to have the Government not be a part of all this. But, even so often, to look for help, guidance, or certainly the simple need to be able to look upon their Government with pride.

I welcome these individuals to the Senate, and I say farewell for the moment to those who are leaving. I con

Senator ENSIGN and ALLEN have joined this institution, who in his wake clearly made it a better place. There is not a finer or more revered Senator.

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

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

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

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

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent to be recognized in morning business.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DURBIN. Mr. President, I would like to associate myself with the remarks of the Senator from New Jersey, paying tribute to colleagues on both sides of the aisle who for a variety of reasons are leaving this institution.

I think it goes without saying that those of us who have been involved in putting ourselves in battles for elections and in giving some courage and maybe some foolhardiness to put your name on a ballot and submit your fate to the neighbors and friends with whom you live. Those leaving this institution have done that time and again. I respect them. Although they disagree on issues and on philosophy, we respect them so much for the courage they have shown and for their dedication to public service.

One of the most important lessons I ever learned in politics was my first. I was a college intern on Capitol Hill working in the office of the U.S. Senator, Paul Douglas. I had no sooner met the man in February than I fell in love with this life and decided to work in Government. A few short months later, he lost his effort to be reelected to the State of Illinois.

It really came crashing down on me—that a man who served for 18 years, because of the decision of the electorate, could see his political career come to an end that bluntly.

A constant reminder in my public life is the fact that this is a fickle business, and no one can ever take for granted the next election. But I believe that the Senate and those who have served here have done so honorably, and I salute those on both sides who will not be with us in the next Congress.

I say on a positive note that we had our organizational caucus of the Democratic Senators a few days ago in the Old Senate Chamber. We had a chance for each of the 10 new Democratic Senators to stand and speak for a moment about their feelings concerning their elections and service in the Senate. One word that was used most frequently was "humble"—how humbled they were to be part of this institution.

I have always felt that. I think it is such an exceptional responsibility but also an exceptional privilege to serve in this great body. I have believed that representing a State as diverse and interesting as Illinois gives a special meaning.

The new Senators coming on both sides of the aisle will add something to this Chamber, as each new class of Senators does. I hope before we begin anticipating the next Congress and what it might mean, we take care of the business of this Congress.

Passing Appropriations Bills

Mr. President, I am required by law, as of each October 1st, to pass spending bills, appropriations bills for the function of government. Most Congresses fail to meet the deadline of October 1st. Some miss it by a few days, some by a few weeks. Sadly, this Congress will miss it by weeks.

We still have major spending bills which have not been passed by this Congress. Frankly, we have run out of
To pass those bills which will continue the functions of government. The Labor-HHS bill is one that deals with education and health and labor standards in America. Is there any greater responsibility? How can we explain the fact that we still haven't done it? There is no excuse left. We need to pass that legislation and do it quickly.

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

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

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

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

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

In my conversations with hospital administrators and doctors, those who are managing nursing homes, those who are providing valuable health care services, there is nothing more important to them than getting this done before we leave. No excuse will do. It was part of the general tax relief bill that was pending before Congress, a controversial bill that involved over $250 billion in tax relief over the next 10 years. That bill is caught up in controversy and is going nowhere. The President said he would have to veto it. The provision in there relative to Medicare and Medicaid would be lost in that process.

It has been reported in the newspapers, and I think it is probably accurate, that the leadership has pulled away from that tax bill now and believes it cannot pass. But we would make a serious mistake if we backed off from our commitment to deal with Medicare and Medicaid before we adjourn this Congress. I think there is a will and there is a way to do this. The provision in there relative to Medicare and Medicaid would be lost in that process.

Mr. WELLSTONE. Mr. President, it is my understanding that we are now in debate on the bankruptcy bill; is that correct?

Mr. WELLSTONE. Mr. President, the Chair. Mr. President, the Chair.

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Mr. WELLSTONE. Mr. President, the Chair. Mr. President, the Chair.

Mr. President, The proponents of this bill argue that people file because they want to get out of their obligations, because they're untrustworthy, because they're dishonest, because there is no stigma in filing for bankruptcy.

But any look at the data tells you otherwise. We know that in the vast majority of cases it is a drastic step taken by families in desperate financial circumstances and overburdened by debt. The main income earner may have lost his or her job. There may be sudden illness or a terrible accident requiring medical care.

Specifically we know that nearly half of all debtors report that high medical costs forced them into bankruptcy—this is an especially serious problem for the elderly. But when you think about it, a medical crisis can be a double financial whammy for any family. First there are the high costs associated with treatment of serious health problem. Costs that may not be fully covered by insurance, and certainly the over 30 million Americans without health insurance are especially vulnerable. But a serious accident or illness may disable— at least for a time—the primary wage earner in the household. Even if it isn’t the person who draws the income, a parent may have to take significant time to care for a sick or disabled child. Or a son or daughter may need to care for an elderly parent. This means a loss in income. It means more debt and the inability to pay that debt.

Are people overwhelmed with medical debt or sidelined by illness dead before they could file— as is my understanding that we are now in debate on the bankruptcy bill; is that correct?

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Are people overwhelmed with medical debt or sidelined by illness dead before they could file— as is my understanding that we are now in debate on the bankruptcy bill; is that correct?
Women single filers are now the largest group in bankruptcy, and are one third of all filers. They are also the fastest growing. Since 1981, the number of women filing alone increased by more than 700 percent. A woman single parent is nearly four times more likely to file for bankruptcy than the population generally. Single women with children often earn far less than single men aside for the difficulties and costs of raising children alone. Divorce is also a major actor in bankruptcy. Income drops, women, again, are especially hard hit. They may not have worked prior to the divorce, and now have custody of the children.

Are single women with children deadbeats? This bill assumes they are. The new nondischargeability of credit card debt will hit hard those women who use the cards to tide them over after a divorce until their income stabilizes. And the “safe harbor” in the conference report which proponents argue will shield low and middle class debtors from the means test will not benefit many single mothers who need help the most because it is based on the combined income of the debtor and the debtor’s spouse, even if they are separated, the spouse will be included in the bankruptcy and the spouse is providing no support for the debtor and her children. In other words, a single mother who is being deprived of needed support from a well-off spouse is further harmed by this bill, and the legislation of that spouse available to pay debts for determination of whether the safe harbor and means test applies.

Mr. President, you will hear my colleagues talk about high economic growth and low unemployment and wonder how so many people could be in circumstances that would require them to file for bankruptcy. Well, the rosy statistics mask what has been modest real wage growth at the same time the debt to income ratio of these families has skyrocketed. And it also masks what has been real pain in certain industries and certain communities as the economies restructure. Even temporary job loss may be enough to overwhelm a family that carries significant loans and often the reality is that a new job may be at a lower wage level—making a previously manageable debt burden unworkable.

So what does this bill do to keep people who have legal recourse to face the consequences of bankruptcy? Nothing. Zero. Tough luck. Instead, this conference report just makes the fresh start of bankruptcy harder to achieve. But this doesn’t change anyone’s circumstances, this doesn’t change the fact that these families have no longer earn enough to sustain their debt. Mr. President, there is not one thing in this so called bankruptcy reform bill that would promote economic security in working families.

When you punch the rhetoric aside, one thing becomes clear: The bankruptcy system is a critical safety net for working families in this country. It is a difficult demoralizing process, but for nearly all who decide to file, it means the difference between a financial disaster being temporary or permanent. The repercussions of tearing that safety net asunder will be tremendous, but the authors of the bill remain deaf to the present condition that is the bankruptcy system is a critical safety net that is beginning to swell as ordinary Americans and members of Congress begin to understand that bankrupt Americans are much like themselves—are exactly like themselves—just that they aren’t making much more than a medical bill, one predatory loan away from joining the ranks.

For the debtor and his family the effect of bankruptcy—despite the embarrassment, despite the humiliation of acknowledging financial failure—is obvious, to get out from crushing debt, to be able to once again attempt to live within one’s means, to concentrate one’s income on clear priorities such as food, housing and transportation. But to my colleagues it is their first priority to see a just society to ensure that financial mistakes or unexpected circumstances do not mean banishment forever from productive society.

The “fresh start” that is under attack here is that there is nothing less than a critical safety net that protects America’s working families. As Sullivan Warren and Westbrook put it in “The Fragile Middle Class”:

Bankruptcy is a handhold for middle class debtors who have not gone to the undertrade, and pour into channels before unfilled the tide of capital. This is still true today.

This isn’t a debate about reducing the high number of bankruptcies. No way will this legislation do that. Indeed, rewarding the lending that got us here in the first place we will see more consumers overburdened with debt.

No, this is a debate about punishing failure. Whether self inflicted or uncontrolled and unmerited. This is a debate about punishing failure. And if there is one that this country has learned, punishing failure doesn’t work. You need to correct mistakes, prevent abuse. But you also need to lift people up when they’ve stumbled, not beat them down.

Of course, what the Congress is poised to do here with this bill is even worse within the context of this Congress. This is a Congress that has failed to address skyrocketing drug costs for seniors, this is a Congress that has failed to enact a Patients’ Bill of Rights much less give all Americans access to affordable health care. This is a Congress that does not invest in education, that does not invest in affordable child care. This a Congress that has yet to raise the minimum wage. But instead, we declare war on America’s working families with this bill.

What is clear is that this bill will be a death of a thousand cuts for all debtors regardless of whether the means test applies. There are numerous provisions in the bankruptcy reform bill designed to raise the cost of bankruptcy, to delay its protection, to reduce the opportunity for a fresh start. But rather than failing the heaviest on the supposed rash of wealthy abusers of the code, they will fall hardest on low and middle income families who desperately need the safety net of bankruptcy.

I want to take some time to talk about the effect this bill will have on low and middle class debtors. Remember, nearly all debtors who file for bankruptcy are not wealthy scofflaws,
but rather people in desperate economic circumstances who file as a last resort to try and rebuild their finances, and, in many cases, end harassment by their creditors. And in particular I want to remind my colleagues of the May 15, 2000, Time magazine cover story on this so-called bankruptcy reform legislation was entitled “Soaked by Congress.”

The article, written by reporters Don Bartlett and Jim Steele, is a detailed look at how much of what families are going through in bankruptcy America. You will find it far different from the skewed version being used to justify this legislation. The article carefully documents how low and middle income families—increasingly households headed by single women—will be denied the opportunity of a “fresh start” if this punitive legislation is enacted. As Brady Williamson, the Chairman of the National Bankruptcy Review Commission, notes in the article, the bankruptcy bill would condemn families headed by single women and working folks down on their luck. How is it that this bill is so skewed against their interests and in favor of big banks and credit card companies?

Charles and Lisa Trapp were forced into bankruptcy by medical problems. Their daughter’s medical treatment left them with medical debts well over $100,000, as well as a number of credit card debts. Because of her daughter’s degenerative condition, Ms. Trapp had to leave her job as a letter carrier about two months before the bankruptcy case was filed to manage her daughter’s care. Before she left her job, the family’s annual income was about $93,000, or about $7900 per month, so under the bill, close to that amount, about $6200, the average monthly income for the previous six months, would be deemed to be their current monthly income. Though their gross monthly income at the time of filing was only $4800. Based on this fictitious, deemed income, the Trapps would have been presumed to be abusing the Bankruptcy Code, since their annual income was more than the IRS lower guideline for an $83,000, or about $6900 per month, and the Trapps would be deemed to be their current monthly income. The Trapps could not file a chapter 13 case because of their “what essentially is a life term in debtor’s prison.”

Now proponents of this legislation have tried to refute the Time magazine article. Indeed during these final days of debate you will hear the bill’s supporters claim that low and moderate income debtors will be unaffected by this legislation. But colleagues, if you listen carefully to their statements you will hear that they only claim that such debtors will not be affected if the bill’s means tests. Not only is that claim demonstrably false—the means test and the safe harbor have been written in a way that will capture many working families who are filing for Chapter 7 relief in good faith—but it ignores the vast majority of this legislation which will impose needless hurdles and punitive costs on all families who file for bankruptcy regardless of their income. Nor does the safe harbor apply to any of these families! You just ask any of my colleagues how the Congress has chosen to come down so hard on ordinary working folk down on their luck. How is it that this bill is so skewed against their interests and in favor of big banks and credit card companies? Maybe that’s because these families don’t have million-dollar lobbyists representing them before Congress. They don’t give hundreds of thousands of dollars in soft money to the Democratic and Republican parties. They don’t spend their days hanging out with the Senate chamber waiting to bend a Member’s ear. Unfortunately, it looks like the industry got to us first.

They may have lost a job, they may be struggling with a divorce, maybe there are medical creditors. But you know what? They are busy trying to turn their lives around. And I think it is shameful that at the same time this story is unfolding for a million families across America, Congress is poised to make it harder for them to turn it around. Who do we represent?

I want to take a few minutes to explain exactly what the effects of this bill will be on real life debtors—the folks profiled in the Time article. I hope the authors of the bill will come to the floor to debate on these points. There could be the opportunity for some real progress on an issue that has dramatically affected both Ms. Trapp and and her family. Specifically, I challenge them to come to the floor and explain to their colleagues how making bankruptcy relief harder and much more costly to achieve will benefit working families.

Does this bill take on wealthy debtors who file frivolous claims and shield their assets in multi million dollar mansions? No, it guts the cap on the homestead exemption adopted by the Senate. I ask my colleagues who support this bill: have you or they asked the Senate to close the massive homestead loophole that exists in five states, and in a bill that falls so harshly on the backs of low and moderate income individuals?

I wonder how my colleagues who vote for this conference report will explain this back home. How will they explain that they supported letting wealthy debtors shield their assets from creditors—the same time they are ending the practice under current law of stopping eviction proceedings against tenants who are behind on rent who file for bankruptcy. With one hand we get tenants rights, with the other we shield wealthy homeowners.

Nor does this bill contain another amendment offered by Senator Schumer and adopted by the Senate that would prevent violators of the Fair Access to Clinic entrances Act—which protects women’s health clinics—from using the bankruptcy system to walk away from their punishment. Again, I thought the sponsors of the measure wanted to crack down on people who game the system. What could be a bigger misdirection of the system than to use the bankruptcy code to get out of damages imposed because you committed an act of violence against a women’s health clinic?

And yet the secret conference on his bill simply walked away. They walked away from the real opportunity to prohibit an abuse that all sides recognize exist, but they also walked away from an opportunity to protect women from

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harassment. They walked away from the opportunity to protect women from violence.

So why shouldn't people be cynical about this process? Ever since bank-
ruptcy reform was passed by the Sen-
ate, the system has been less balanced, less fair, and more punitive—but only for low and moderate income debtors.

So again, I would say to my colleagues, this bill is a question of our priorities. Will we stand with wealthy dead beats or will we take a stand to protect women seeking reproductive health services from harassment?

But unfortunately, these were not the only areas where the shadow con-

You know, a lot of folks must be watching the progress of this bank-
ruptcy bill over the course of this year with awe and envy. Can my colleagues name one other bill that the leadership has worked so hard and with such de-
termination to move by any and all means necessary? Certainly not an in-
crease in the minimum wage. Certainly not a meaningful prescription drug benefit for seniors, certainly not the reau-
thorization of the Elementary and Secondary Education Act. On many issues, on most issues, this has been a do nothing Congress. But on so-called bankruptcy reform, the Senate and House leadership can't seem to do enough.

One can only wonder what we could have accomplished for working fam-
ilies if the leadership had the same de-
termination on other issues. Unfortu-
nately those other issues did have the financial services industry behind it. And you have to give them credit—no pun intended—over the past couple of years they have played the Congress like a violin. And what do you know, here we are trying to ram through this bankruptcy bill in the 11th hour as the 100-day period draws to a close.

In reading the consumer credit indus-
try's propaganda one would think the story of bankruptcy in America is one of large numbers of irresponsible, high income borrowers and their conniving attorney using the law to take advan-
tage of naive and overly trusting lend-
ers.

As it turns out, that picture of debt-
ors is almost completely inaccurate. The number of bankruptcies has fallen stead-
ily over the past months, charge
defaults (defaults on credit cards) are down and delinquencies have fallen to the lowest levels since 1995, and now all sides agree that nearly all debtors re-
sort to bankruptcy not to game the system but rather as a desperate measure of economic survival.

It also turns out that the innocence of lenders in the admittedly still high numbers of bankruptcies has also been—to be charitable—overstated.

As credit card debt, retail balances on credit cards and the financing plans for consumer goods have skyrocketed in recent years, so have the number of bankruptcy filings. As the consumer credit industry has begun to aggres-
sively court the poor and the vulner-
able, bankruptcies have risen. Credit card companies brazenly dangle lit-
erally billions of card offers to high
debt families every year. They encour-
ge card holders to make low payments toward their card balances, guaran-
teeing that a few hundred dollars in
clothing or food will take years to pay off. The lengths that companies go to keep their customers in debt is ridicu-

But how responsible has the industry been? I suppose that it depends on how you look at it. On the one hand, con-
sumer lending is territorially profitable, with high cost credit card lending the most profitable of all (except perhaps for even higher costs credit like payday lend-
ings). But as the standard of re-
sponsibility to the bottom line they have done a good job.

On the other hand, if you define re-
sponsibility as promoting fiscal health among families, educating on judicious use of credit, ensuring that borrowers do not go beyond their means, then it is hard to imagine how the financial services industry could be bigger dead-
beats.

According the Office of the Com-
proller of the Currency, the amount of re-
volving credit outstanding—i.e. the amount of open ended credit (like cred-
it cards) being extended—increased seven times during 1980 and 1995. And between 1993 and 1997, during the sharp-

indeed, what do credit card compa-
nies do in response to “danger signals” from a customer that they may be in over their head. According to "The Fragile Middle Class" an in depth study of consumer bankruptcy and why, the company's reaction isn't what you would think.

In other words, those folks who may have come into your office this year or last year talking about how they needed protection from customers who walked away from debts, who thought Congress should mandate credit counsel-
ing—to promote responsible money management—as a requirement for seeking bankruptcy protection, who ar-

But other practices are not illegal, merely unsavory. Let me repeat myself in case my col-

Congress should mandate credit coun-
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It also seems to me that Congress, in its attempt to fix the banking system, may be just as bad as the banks themselves. The bill reduces the amount of money that banks can invest in other things, such as mortgages, and increases the amount of money that banks must keep on hand in reserve. This move is likely to increase the cost of borrowing for consumers and businesses, as banks will have to charge higher interest rates to cover the increased cost of holding reserves. It is important for Congress to consider the potential unintended consequences of this legislation before passing it into law. 

In conclusion, I believe that this bill is a dangerous move for the American economy. It is likely to drive up the cost of borrowing for consumers and businesses, and it may further exacerbate the already dire economic situation. I urge my colleagues to carefully consider the implications of this legislation before voting on it.

The bill also includes provisions that would protect banks from being sued for predatory lending practices. This is a significant concern, as banks have been accused of engaging in unfair and deceptive practices in the past. It is important for Congress to ensure that these protections do not allow banks to engage in abusive lending practices that could harm consumers.

As I have said before, the banking industry has a track record of unethical behavior. It is essential that Congress hold banks accountable for their actions and ensure that they are acting in the best interest of the American people. I urge my colleagues to stand up for the American consumer and vote against this bill.
That is pretty brazen, but as my colleagues will hear over and over in this debate, this isn’t just an industry that wants to have it both ways, it wants to have it several different ways.

Of course, these are mild abuses compared to predatory lending. Schemes such as payday loans, car title pawns, and home equity loan scams harm tens of thousands of more Americans on top of those shaken down by the mainstream creditors. Such operators often target vulnerable families like the working poor and the recently bankrupt. They even claim to be performing a public service: providing loans to the uncreditworthy. It just also happens to be obscenely profitable to draw in vulnerable borrowers with debt at usurious rates of interest.

Hey, who said good deeds don’t get rewarded?

Reading this conference report makes it clear why has the cloture cloture cloture from Washington. There is no one provision in this bill that holds the consumer credit industry truly responsible for their lending habits. My colleagues talk about the message they want to send to the banks, but the bill will never be a “free ride” to a clean slate. Well what message does this bill send to the banks, and the credit card companies? The message is clear: make risky loans, discourage healthy, borrowing practices, encourage excessive indebtedness and impose barriers to paying off debt all in the name of padding their profits. It would be a bitter irony if Congress were to reward big banks, credit card companies, and other lenders for their bad behavior, but that exactly what passage of bankruptcy reform legislation is.

Is bankruptcy reform so important that we should weaken the integrity of the Senate itself? It is not. I question whether any legislation is that important, but to make such a blatant mockery of the legislative process on a bill that is going to be ignored anyway? That is effectively dead? I just to make a political point? What have we come to?

This is a game to the majority. The game is how to use the power of the legislative process on a bill that is going to be ignored anyway? Is bankruptcy reform so important that we should weaken the integrity of the Senate itself? Is not. I question whether any legislation is that important, but to make such a blatant mockery of the legislative process on a bill that is going to be ignored anyway? That is effectively dead? I just to make a political point? What have we come to?

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

Each Senator who today votes for this conference report should know they may find themselves in the major-
will be on the other side of this tactic. Today it is bankruptcy reform, but someday you will be the one protesting the inclusion of a provision that you believe is outrageous.

Regardless of the merits of bankruptcy reform, this is a terrible process. I would urge my colleagues to vote no to send a message to the leadership. Send a message that you want your rights as Senators back.

First, this is a bad bill. It punishes the vulnerable. It punishes those who have read the big bankruptcy credit card companies for their own poor practices. And this legislation has only gotten worse in the sham conference.

Earlier, I used the word “injustice” to describe this bill—and that is exactly right. It will be a bitter irony if creditors are able to use a crisis—largely of their own making—to convince Congress to decrease borrower’s access to bankruptcy relief. I hope my colleagues reject this scheme and reject this bill.

Mr. President, I will not repeat what I said yesterday at the beginning of this debate. I will respond to some comments that were made on the floor dealing with chapter 12.

Some of my colleagues have talked about chapter 12 farmers’ bankruptcy relief, and they have made the argument that opposition to this bankruptcy bill, for chapter 12, is very important for protection of family farmers. I point out to colleagues that it is precisely the opposite case.

A year ago when it first became clear that this bankruptcy bill, for very good reasons, was not going to move forward, under the able leadership of Senators and Representatives—Senators such as Senator GRASSLEY—legislation was introduced and passed which extended chapter 12 bankruptcy protection for farmers. Within about 20 days, it was signed by the White House and passed. No problem.

This past Tuesday, in June, the House passed an extension, but for some reason the majority leader took no action on this. Then in October, the House passed a 1-year extension for chapter 12 for family farmers. Again, the majority leader took no action on this.

This can pass within 24 hours. What we have here is a bit of a game going on where chapter 12 becomes held hostage to a bankruptcy bill with many harsh features which will be vetoed by the President. This is my view, either the veto will be sustained or it will not become law and should not become law.

But let me be clear. Chapter 12, the bankruptcy relief for family farmers, can be passed separately within a day or two. It is not a problem. So no one from any ag State should believe that somehow you have to vote for a harsh piece of legislation that targets the most vulnerable citizens, that is completely one sided, that calls for no accountability from credit card companies or larger banks, in order to get bankruptcy relief for family farmers. It is just simply not true.

The proponents of this bill have argued—they have been pretty explicit about this—that the people who are filing for chapter 7 do so because they want to get out of their obligations, because they are unretrustworthy, because they are dishonest, and because they sort of feel no stigma in filing for bankruptcy.

I would, one more time, like to point out on the floor of the Senate that about 50 percent of the people who file for chapter 7 do so because of major medical bills that have put them under. Quite often, it becomes a double whammy: Either you not only are faced with a major medical bill that puts your family under—we have not done a good job of affording health care—or, which is the double whammy, you cannot work because you are the one who is ill, in which case you lose your income, or it can be a loved one who is faced with a serious illness or disability and you are the one who takes care of them. In which case, again, you can lose your job and your income.

So I do not really think we ought to be viewing families who file chapter 7 because of major medical bills as dishonest or untrustworthy.

Now the largest single group of those citizens who file for bankruptcy are women. They are one-third of all the Chapter 7 filers. They are the fastest growing group. Now, one-third of all women filing alone increased by more than 700 percent.

It is not so surprising that single parents—women with children—are among the largest or disproportionate number of people who file for bankruptcy. Because, in addition to medical costs, divorce is a major factor in bankruptcy income drops—women again are especially hard hit. Many of them have not worked prior to divorce, and now they have to find themselves in very difficult financial circumstances.

Are single women with children deadbeat? All too much of this bill assumes they are. The new nondischargeability of credit card debt will hit hard those women who use the cards to tide them over after divorce until their income stabilizes. The safe harbor in the conference report, which proponents argue will shield low- and moderate-income debtors from the means test, will not benefit many single mothers who need the help the most because it is based upon the combined income of the debtor and the debtor’s spouse, even if they are separated. The spouse is not filing for bankruptcy, and the spouse is providing no support for the debtor or children, but that spouse’s income is considered.

This piece of legislation does not provide the help to many hard-pressed single parents, most of whom are women.

I have heard some of my colleagues out here on the floor talking about economic growth, low unemployment, saying, if you promote this economic growth, how can you have people filing for bankruptcy? Surely, it must be, again, that these are people who feel no stigma.

You know what. This rosy picture masks the fact that there is real pain in certain industries, and there are certain communities and certain families under siege.

This is a news release from the LTV Corporation, Hoyt Lakes, MN, which was issued on May 24, 2000, its intention to close the local mining operation. They were going to close at the end of the summer. Now they have said, in this release, that they are going to cease permanently on February 24, 2003. This is some holiday gift. And our friends don’t know—1,300 or 1,400 miners. These miners and their families wonder what is going to happen to them. These are the kinds of families who all too often find themselves in these difficult economic circumstances, economy, economy, and quite often have to file for chapter 7.

Are we going to make the argument that these families are without a sense of responsibility? Are we going to make the argument that these families are loafers and they feel no stigma?

What does this piece of legislation do to help keep people from having to undergo these wrenching experiences that force them into bankruptcy? Nothing. Zero. Tough luck. The only thing this piece of legislation does is make it harder for people to file bankruptcy, to file chapter 7, to rebuild their lives.

We do not do anything to help on health care costs. We do not do anything in terms of dealing with the unfair dumping of steel with a fair trade policy. We do not do anything in terms of passing an Elementary and Secondary Education Act. We do not do anything on affordable housing. We do not do anything to raise the minimum wage. We do not do anything to make these families more economically secure. But instead, what we do is we make it difficult for people to rebuild their lives.

This is sham reform. When you push the rhetoric as they are doing, it becomes clear: The bankruptcy system is a critical safety net for many middle-class, working-class, low-income families. It is a difficult, demoralizing process, but it is a critical safety net for families. And we are standing up that safety net. I say to my colleagues: This may be many different standards that different Members have when they bring legislation to the floor of the Senate. We
come from different backgrounds. We come from different States. We have different philosophies about the role of Government in society, We have different priorities. But, for God's sake, there should be one principle that all of us can agree on that is that what we should do no harm to the most vulnerable people and most vulnerable families in this country.

I believe strongly—and I have argued yesterday and today—that that is exactly what we are doing. That is what is at issue is a debate about priorities. This is a debate about what side you are on. This is a debate about with whom you stand. Will you stand with the big banks and credit card companies or will you stand with hard-pressed families, with seniors, with single women with children, with African Americans, with Hispanics, with people of color, with consumers?

What the Congress is poised to do here with this bill is worse within the context of this Congress because this is a Congress that has failed to address skyrocketing drug costs for seniors; this is a Congress that has failed to pass a Patients' Bill of Rights; this is a Congress that has failed to make sure that children have access to affordable health care; this is a Congress that has failed to invest in education; this is a Congress that has failed to invest in affordable child care; this is a Congress that has failed to raise the minimum wage. But instead, with this bill we declare war on working families.

What is clear is that this piece of legislation will be a death of a thousand cuts for all debtors regardless of whether the means test applies.

There are numerous provisions in the bankruptcy reform bill designed to raise the cost of bankruptcy, to delay its protection, to reduce the opportunity for a fresh start. But rather than putting that burden on the shoulders of the vast majority of those who filed for bankruptcy? Poor tenants are evicted. Some folks are watching the progress of this bill and they will fall hardest on low- and middle-income families who desperately need this safety net of bankruptcy.

I commend to my colleagues, but I will not take a lot of time on it, the May 15, 2000, issue of Time magazine whose cover story on so-called bankruptcy reform legislation was entitled “Soaked by Congress.” I hope they will read it.

I will quote from Brady Williamson, Chairman of the National Bankruptcy Commission. Please remember, 116 law professors in this country who teach bankruptcy law, who do their scholarship in this area, have said this bill is harsh and one-sided, without balance, and should not pass.

Brady Williamson, Chairman of the National Bankruptcy Review Commission, notes in the article from Time magazine: The bankruptcy bill would condemn many working families to “what essentially is a life term in debtors' prison.”

I will talk a little bit about this piece of legislation in relation to what the Senate passed before. Not only does the majority leader want to ram through bankruptcy legislation on the State Department authorization conference report, which he has literally hijacked for this purpose, there is no question in my mind that this is the piece of legislation—I heard colleagues yesterday say “better”—than passed by the Senate. Does this piece of legislation take on wealthy debtors who file frivolous claims and shield their assets in multimillion-dollar mansions? No. It guts the cap on the homestead exemption which was adopted by the Senate. It was taken out in conference.

I ask my colleagues who support this bill, how can you claim that this bill is designed to crack down on wealthy scoff laws without closing the massive homestead loophole that exists in five States? And in a bill that falls so harshly on the backs of low- and moderate-income individuals, you have a huge exemption for people who can go buy multimillion-dollar mansions. How do you explain that back home? How will you explain that you supported letting wealthy debtors shield their assets from creditors at the same time you voted to end the practice under current law of stopping eviction proceedings against tenants who were behind on rent and who filed for bankruptcy? Poor tenants are evicted. Wealthy people can shield their assets and go buy multimillion-dollar homes. On the one hand tenants' rights, while on the other hand we shield wealthy homeowners. That is what this piece of legislation is about.

Nor does this bill contain another amendment offered by Senator Schumer and adopted by the Senate that would prevent violators of the Fair Access to Clinic Entrances Act, which protects women's health clinics, from using the bankruptcy system to walk away from their punishment. Some folks are watching the progress of this bill and they are watching the way this bill has developed over the last year with a considerable amount of awe and envy. Can my colleagues name one other bill on which the leadership has worked so hard and with such determination to move by any and all means necessary? Certainly not an increase in the minimum wage; that is not a priority. Certainly not a meaningful prescription drug benefit for seniors; certainly not reauthorization of the Elementary Secondary Education Act. On many issues, on most issues, there has been nothing done in this do-nothing Congress. But on the so-called bankruptcy reform, the Senate and House leadership can't seem to get enough. One can only wonder what we could have accomplished for working families if the leadership had the same determination on these other issues. Unfortunately, those other issues did not have the financial services industry behind them.

You have to give them credit, no pun intended. Over the past couple of years, the financial services industry has played this Congress like a violin. And what do you know, we are trying to ram through this bankruptcy bill in the 11th hour as the 106th Congress comes to a close.

In reading the consumer credit industry's propaganda, you would think the story of bankruptcy in America is one of large numbers of irresponsible, high-income borrowers and their conniving attorneys using the law to take advantage of naive and overly trusting lend- eners. Nothing could be further from the truth. The number of bankruptcies has fallen steadily over the past several months. It turns out that the people about whom we are talking are vulnerable citizens. The major reason is major medical costs. I have made that argument.

As high-cost debt, credit cards, retail charge cards and financing plans for consumer goods have skyrocketed in recent years, so have the number of bankruptcy filings. The consumer credit industry has begun to aggressively court the poor and the vulnerable, bankruptcies have risen. Credit card companies brazenly dangle literally billions of credit card offers to those who are desperate and have no accountability for them. They encourage credit card holders to make low payments toward the card balances, guaranteeing that a few $100 in clothing or food will take years to pay off. The lengths these companies go to keep their consumers in debt is ridiculous.

So in the interest of full disclosure, something that the industry itself is not very good at, I would like my colleagues to be aware of what the credit card industry is practicing even as it preaches the sermon of responsible borrowing. After all, debt involves a borrower and a lender. Poor choice, irresponsible behavior by either party can make the transaction go sour. So how responsible has the industry been? It depends upon how you look at it.

On the one hand, consumer lending is terrifically profitable, with high-cost credit card lending the most profitable of all, except for perhaps even higher cost credit such as payday loans. So I guess by the standard of responsibility to the bottom line, this industry is doing great.

On the other hand, if you define responsibility as promoting fiscal health among families, educating on judicious use of credit, ensuring that borrowers do not go beyond their means, then it is hard to imagine how the financial services industry could be bigger deadbeats.

From studies from the Office of the Comptroller of Currency, some of the settlements that have been reached with Providian Financial Corporation, Sears & Roebuck, American Capital Corporation, a subsidiary of GE, the Department of Justice brought an antitrust suit against Visa and Mastercard. We have example after example after example of abuses by this industry but
not one word in this piece of legislation that calls for any accountability.

In case my colleagues miss the blatant hypocrisy of what is going on here, the big banks and credit card companies are pushing to rig the system and make it more difficult unless you perform credit counseling at the same time that they are jeopardizing the health of the credit counseling industry by pumping credit cards, by themselves abusing the system, and hardly making it easier for people who are making it more difficult.

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

Are you on the side of working families who need a financially fresh start because they are overburdened with debt? Fifty percent of bankruptcies are because of major medical bills. Are you for preserving this critical safety net for the middle class? Will you stand with the civil rights community and the religious community and the women's community and consumer groups and labor unions who fight for ordinary Americans who oppose this bill or will you support the credit card companies and the big banks and the auto lenders who desperately want this bill to pad their profits?

I hope there is a clear choice for Senators.

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

The PRESIDING OFFICER. Who yields time?

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

First of all, in response to the Senator from Minnesota, I was a little bit amused at the use of the words "blatant hypocrisy." I don't question his use of those words at all. But the fact is that this has been passed with 83 Senators voting for it. It passed the Senate and went to conference. Three-fourths of the members of his caucus voted for this legislation. If there is blatant hypocrisy, it is very bipartisan hypocrisy.

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

Mr. GRASSLEY. I sure will, only for the purpose of a question.

Mr. WELSTON. My understanding is that the bill passed with the Schum-Larsen provision in it, and it also dealt with the homestead exemption. That is a different bill from the one we are considering right now. Am I not correct?

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

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, second, the interest in this legislation and the reason this is such an important piece of legislation is that there is a lot of understanding at the grassroots of America that it is immoral and unethical for people with the ability and the means to repay some of their debt to go into bankruptcy court and be discharged of that debt.

It is particularly wrong when it hurts the very same low-income and middle-income Scott Sorenson, the Senator from Minnesota, talks. They have to pay $400 more per family per year for goods and services. They pay a higher fee or price because somebody else isn't paying their bills. That is not going to be another business in most cases; it is going to be passed on to the consumer.

On the basis of ability to pay, particularly for the necessities of life of food and clothing and things of that nature, it is going to hurt the low-income people and middle-income people of America disproportionately because somebody else isn't paying their bills. There is an understanding at the grassroots of America that this just isn't right. That is why this legislation has such overwhelming support. I refer to this chart because it has letters from my constituents. I bet the Senators from Minnesota and other States are getting letters from their constituents saying the same thing.

We have a letter from a constituent of mine in Des Moines who says:

"It is insane that such practice has been allowed to continue causing higher prices to consumers. Debtors should be required to pay their debts."

A constituent from Keokuk, IA:

"Bankruptcies are out of hand. It is time to make people responsible for their actions. Do we need to say this?"

In other words, it is unconscionable to that constituent that we would have a situation with 1.4 million bankruptcies in America, with the number doubling in 5 or 6 years, at a time when we have the best economic growth in our Nation.

Another constituent:

"We need to make more people responsible for their savings. It is the same time protecting those who fall on hard times. I realize this is a delicate balance. But the way it is now, there is very little change going this route."

This bill is a very delicate balance. That is why it passed with 83 votes. It also preserves what this constituent said in the letter. She understands that there are some people who go into debt through no fault of their own. And for the 100,000 stories of the bankruptcy code of the United States, we have recognized that certain people may be in hard times through no fault of their own and they are entitled to a fresh start. This allows that fresh start. But, at the same time for those who have the ability to repay, it sends a clear signal to not go into bankruptcy court because you are not going to get off scot-free anymore.

Another constituent from Fontanelle, IA says:

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

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

Another constituent from Cedar Rapids:

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

If it has become a right or entitlement, the statistics of the last 6 or 7 years show an increase of about 700,000 to 1.4 million. It is an example maybe of some additional people in America seeing it as a way to manage their finances. It becomes a financial management tool for some.

Another constituent from Waverly, IA:

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

A constituent from Washington, IA:

"The current bankruptcy laws are a joke. One local man has declared bankruptcy at least four times at the expense of suppliers to him. He just laughs at it."

There is a person who quite obviously figures out the ease of using bankruptcy as a financial planning tool. A Cedar Falls constituent:

"It is way too easy to avoid responsibility."

From Indiana, IA:

"If one assumes debt, they need to pay it off. We have got to take responsibility for our purchases."

That reminds me of the President in his speeches during his second term, and maybe even at the ending of his first term. He always talked about the importance of individual responsibility and individuals have to be responsible.

As we hopefully present this bill to the President of the United States today, I want to remind President Clinton of how often he talked about the necessity of individual responsibility. If he believes that—and I believe he does believe it—then signing this bill is very important to fulfill his own statement that government ought to promote individual responsibility.

A constituent from Harlan, IA:

"Too many people use bankruptcy as a way out. We need to make sure people are held accountable for all of their debts."

From Fort Madison:

"Personal responsibility is a must in our country. Sickness or loss of a job is one thing, but the majority of people just do not pay and spend their money elsewhere knowing they can unload the debt with the help of the courts."

That is a person who understands the basic principles of bankruptcy: No. 1, careful loss of a job something beyond the control of the individual, there ought to be, and there has been for 100 years under a bankruptcy code, the right for a fresh start.
The other side of that is whether there is an ability to repay. People should pay what they can according to the ability to pay the debt. It also recognizes there are some people, again, who use this as a financial planning tool.

One of my constituents I quote is from Cedar Rapids:

I think people taking bankruptcy should have to pay the money back. ... They should have learned to work for and pay for what they get.

Maybe that statement is not quite as sympathetic to those people who are in bankruptcy through no fault of their own. I don't know for sure. But I am happy to tell that constituent the principle behind this bill, the principle behind the bankruptcy code of the last 100 years, that there is a social policy in this country that some people are in debt through no fault of their own and they are entitled to a fresh start. She thought there should never be a bankruptcy act that would not be able to go to bankruptcy court.

That is the balance of this legislation. This is a balance that has been recognized by the vast majority of this body with those 83 votes we had for original passage. There are things about this legislation I don't like. There are some things that even the Senator from Minnesota said should be tightened up. I won't go into what those are, but I agree with him.

In legislation, particularly as this legislation is, with varying interests—some not wanting any and some wanting a lot more—compromise is the name of the game. There hasn't been a compromise of basic principle here. There may be a compromise of degree, and I am not going to give up just because this bill passes and it is not as much in the direction he wants or I happen to agree with him on a couple of points and perhaps I might move in that direction in the future. But we have had 20 years without bankruptcy reform. We have gone from 300,000 bankruptcies filed per year in the early 1980s to 1.4 per million now, and we have had studies showing it will go up another 15 percent. These are in good times. What about bad times, if we have a recession in the future? There are indications of a Clinton recession coming on now with the indices turning down and confidence in the economy turning down and the manufacturing sector being in recession. Maybe we are starting in this administration with a recession. Then if we are at 1.4 million when times are good, how many hundred thousands more are we going to have when we do have bad times?

When we have bad economic times, high interest rates are not good for the economy. We had testimony from Secretary Summers that bankruptcies will drive up interest rates.

I appreciate very much my friend from Minnesota and his strong position against this bill, even though I disagree with it. Hopefully, in the very next couple of hours he will not be successful in what he has been so successful doing for the last year and a half, not wanting this bill to pass. He has been a tough competitor and one I enjoy competing against. But I think he is very much wrong as he ápplies this thing. This is the wide bipartisan support it has had not only in this body, but it passed originally by a veto-proof margin in the House of Representatives.

I yield to the PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Minnesota.

Mr. WELLSTONE. First of all, let me say I like my colleague from Iowa so much that I will let his comment about the Clinton recession pass and not respond to that.

I also want to make it clear that my use of the word "hypocrisy" of course was not aimed at any Senator and certainly not the Senator from Iowa, who I actually really love working with even though we don't agree on all policies.

I have to say one more time that there is a lot of hypocrisy in a piece of legislation that on the one hand goes very far and on the other hand in conference committee knocks out an amendment, so that now we have millionaires in a position to be able to shield their money and go buy multimillion-dollar homes in other States.

If that is not hypocrisy, I don't know what is. If that doesn't tell you about how lopsided a piece of legislation this is, I don't know what does.

I also think it is more than just a little hypocritical to have a piece of legislation that in the main targets the most vulnerable citizens—I have made that point over and over again—with study after study saying that the highest percentage would be 12 percent, probably 3 percent of the people at most "gaming" this.

People who file for chapter 7 do so because they are in difficult circumstances. Major medical illness puts them under, a divorce, loss of job.

But at the same time that we are now going to make it virtually impossible for many families who find themselves in difficult economic circumstances to rebuild their lives, we don't have one word to say by way of demanding some accountability for these credit card companies that push this debt on to people, that send these cards to our kids, that do all the solicitation, that charge exorbitant interest rates, that are reckless in their lending policies. Not a word. Not a word.

Could it be these are the people with more clout in the Congress? I fear that is part of the problem.

I say to my colleague from Iowa and other Senators, it is simply not the case that these people who file for bankruptcy are gaming the system. Let me give a case study which goes to why this bill is so profoundly wrong. LTV is going to shut down. Miners up on the Iron Range are going to be without a job.

I know the way this bill works. It is an honest disagreement, but it is a wrong disagreement. If one of these families 2 months from now has a major illness—now they are going to have trouble paying their mortgage—do you know what this bill does? This bill doesn't figure their income in February, after they have been laid off. This bill figures their average income over the prior 6 months, during all the times they were gainfully employed.

That is not going to work for these miners, that is not going to work for these hard-pressed working families, and you had better believe I am going to be out here on the Senate floor raising Cain in behalf of these Minnesotans.

Finally, let me one more time, before my colleague from Vermont takes the floor, remind all Senators, but especially Democrats: This is the majority leader, who has made a mockery of the legislative process. We have taken a State Department embassy bill and gutted it. There is not a word left; there is only a number. Instead, you had a bankruptcy bill put together and one of the other hands in conference committee knocks out an amendment, so that now we have millionaires in a position to be able to shield their money and go buy multimillion-dollar homes in other States.

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bankruptcy bill that none of the Demo-
crats had a chance, really, to do much
about. It gets put in—what was it, I
ask my friend from Minnesota, a bill
on embassies?
Mr. WELLSTONE addressed the
Chair.
Mr. LEAHY. I yield on my time.
Mr. WELLSTONE. My colleague is
correct. That is right. Though there is
not a word about that. There is nothing
left of that bill number.
Mr. LEAHY. This was not a case
where there was a concern the embas-
sies were all going bankrupt? The em-
bassy in London or in Moscow or, heav-
en forbid, in Dublin, might be in bank-
ruptcy court in the Southern District of
New York? That is not the case?
Mr. WELLSTONE. I say to my col-
league from Vermont that argument has
not been made. So far, that argument
is not made.
Mr. LEAHY. Thank my friend from
Minnesota. I appreciate his pointing
this out. I just want students who
might look at this afterward and won-
der what bankruptcy has to do with
embassies to go back and read what the
distinguished Senator from Minnesota
says, which is, of course, that it has ab-
solutely nothing to do with embassies.
It is a parliamentary trick to get a
piece of special interest legislation
through.
It is unfortunate this kind of trick
had to be carried out because the Re-
publican majority could have worked
with the President, they could have
worked with Democrats and produced
bankruptcy legislation that is more bal-
anced and more fair. We did this 2 or
3 years ago. I remember Senator
GRASSLEY, Senator DURBIN, others,
worked together and we passed a piece
of bankruptcy legislation that was here
in the Senate. It was strongly backed
by both Democrats and Republicans. I
think we passed it by 97 or 98 votes.
There was only one vote against it. It
was overwhelmingly passed. It shows
what is possible when Republicans and
Democrats work together.
Mr. President, I am disappointed that
the majority refuses to work with the
President and us to pass bankruptcy
legislation that is better balanced and
more fair. Despite the President's re-
peated attempts to offer reasonable
compromises for the last six months,
the majority is continuing to push this
unfair and unbalanced bill. It appears
that the majority and the President have
sanctified the chance for passage of the
bipartisan balanced bankruptcy reform 2
years ago, in the last Congress, are being
repeated in this Congress. We should
work together to finish the work of the
106th Congress. Instead, there seems to
be this effort to push flawed legislation
that virtually guarantees a Presi-
dential veto.
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are spending hundreds of thousands of
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It is a parliamentary trick to get a
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It is unfortunate this kind of trick
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publican majority could have worked
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GRASSLEY, Senator DURBIN, others,
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of bankruptcy legislation that was here
in the Senate. It was strongly backed
by both Democrats and Republicans. I
think we passed it by 97 or 98 votes.
There was only one vote against it. It
was overwhelmingly passed. It shows
what is possible when Republicans and
Democrats work together.
Mr. President, I am disappointed that
the majority refuses to work with the
President and us to pass bankruptcy
legislation that is better balanced and
more fair. Despite the President's re-
peated attempts to offer reasonable
compromises for the last six months,
the majority is continuing to push this
unfair and unbalanced bill. It appears
that the majority and the President have
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bankruptcy health care businesses, to destroy all debtors' tax returns after 3 years of the close of the case, to provide Congress with the authority to add appropriate privacy safeguards to protect electronic bankruptcy data, and to add safeguards for the collection of bankruptcy data.

That was a good bipartisan start with Republicans and Democrats working together. We could have a fair and balanced final bankruptcy reform bill. It was on all sides of the issue were applauding. They were saying: Finally, Republicans and Democrats are working together.

Do you know what happened? Some in the Republican majority found this was going on and said: We can't have it; we can't have that balance; it has to be one sided; it has to be our way or no way, and they stopped those meetings. We actually resolved most of the issues how we would go on the two arguments. There were two key issues outstanding. We could have brought it back for a vote. One was discharge of penalties for violence against family planning clinics, medical clinics, and the other was a probate bankruptcy to avoid the legal consequences of violence, vandalism, and harassment used to deny access to legal health services. An effective approach, such as the one offered by Senator Schumer, which passed the Senate by a vote of 80-17.

I mention that also not just because I am from Vermont, but when I checked the Internet file, I found that along with this man's name, my name was there. I was listed as one of the people who should be shot and killed. I take that a little bit personally, especially when the FBI was looking for a man from my State who is suspected of shooting and killing one of the people whose name was on that list with mine. Dr. Slepian's name has been crossed out. Mine has been left on the list of those who should be shot and killed.

Frankly, I find it a little bit difficult to think, when these people are sued for this kind of thing, and judgments are rendered against them, that they can just go into bankruptcy court and say: See ya.

So nobody will think that there is any kind of conflict of interest, I am not part of any suit against them. I am not going to do that. But for those who have, they ought to at least get their settlement or other judgment, win or lose, in the courts. But we should not let anybody walk into our Federal bankruptcy court—because of a huge loophole that this Congress does not have the guts to close—and just walk home scot-free.

It is hypocrisy at the worst, when we voted 80-17 in this body to close the loophole, and when all but one Member of the other body voted to have an open, conflict of interest on this, both bodies ignored that. That hypocrisy is wrong.

If anybody thinks they do not know the reason why some people in this country look at the Congress and ask what is going on, there is one of your reasons right there. Maybe we ought to look at some of the elections this year and say: Our people are saying they are fed up with this.

In fact, this suspect is still at large, and with a reward of $1 million for his arrest.

You tell me—anybody in this body—you tell me—anybody who is listening to this debate—that somehow it is fair to let people such as that escape because of a loophole that we do not have the guts to close in our bankruptcy law.

Clearly, the perpetrators of violence and illegal intimidation should not be able to abuse the bankruptcy laws to avoid responsibility for their actions. Bankruptcy should not be used to avoid the legal consequences of clinic violence, harassment, and intimidation.

If we do not want to do something against violence, then evidently we do not want to do anything in bankruptcy to offend those who have multimillion-dollar estates in the right States.

In the Senate, we passed, by a vote of 76-22, an amendment to create a $900,000 reward cap on a homestead exemption. Again, we can say we are only concerned about the little people. We are concerned about people paying the debt. All people—we want
everybody to pay their bills. Whether they are rich or poor, we want them to pay their bills. We are equal to everybody.

Of course, that would have eliminated one of the most flagrant abuses in bankruptcy—the ability of debtors to bankrupt themselves for expensive homes in a handful of States with unlimited exemptions, declaring bankruptcy, and then keeping their millions of dollars in the homes that they have in those States.

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

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

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

On June 29, the President, himself, wrote to congressional leaders about the need to end abusive homestead exemptions in any final bankruptcy reform bill. President Clinton wrote: I am concerned, for example, that the final bill may not adequately address the problem of wealthy debtors who use overly broad homestead exemptions to shield assets from their creditors.

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

A few days later, the President wrote to Majority Leader Lott: The President appreciates your significant movement on the homestead issue. We realize that the offer goes against strongly held views of some members of your caucus, and we are told that it is unlikely that we will have proposed placing a cap of $250,000 on the size of state homestead exemptions, we could accept a homestead cap of $500,000, we were to reach agreement on other issues.

It does not take a rocket scientist to understand that the President would veto a bankruptcy conference report that did not adequately address the discharge of penalties for violence against family planning clinics and the firebombers to go free. For Pete's sake, let's not let somebody who has amassed millions of dollars of assets, and even more millions of debt, to say: I will go buy a house in Texas or Florida because then I can escape my creditors.

Mr. President, how much time does the Senate from Vermont have remaining? The PRESIDING OFFICER. Four and one-half minutes.

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

Mr. GRASSLEY addressed the Chair. The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. We are waiting for the Senator from Alabama to come and speak. Before he gets here, I will take a moment, so I yield myself such time as I might consume. The PRESIDING OFFICER. Without objection, it is so ordered.

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

I was disappointed, however, in his comments on the process. He referred to a very unusual process. I confess that it was a very unusual process by
which this bill was conceived and got to the Senate floor. But I think I heard him say something about Democrats not being consulted. There was a 3-3 ratio on this conference. Normally there would not be a 3-3 ratio; there would have been more Republican than Democrat. But because of Senator Coverdell’s death, it ended up on this conference there were three Republicans and three Democrats. So the point is, we would not be here today if it were not for help from Democrats, even on conference.

I only say that because the Senator from Vermont is a friend of mine. He is very strongly opposed to this legislation. But I thought I ought to point out the fact that there are those small, insignificant modifications of his comments that I thought I ought to make. Whether he would consider those clarifications or not, that is his judgment. But I want them on the record for my point of view.

I also address an issue raised by Senator LEAHY. Some have stated that the bankruptcy conference report should be opposed on the grounds that it does not contain a provision that would preclude a debtor’s previously incurred civil sanctions for violation of a temporary restraining order (TRO) creating a buffer zone outside the premises of an abortion service provider. In this case, the bankruptcy court held that a debtor’s previously incurred civil sanctions for violation of a temporary restraining order (TRO) creating a buffer zone outside the premises of an abortion service provider was nondischargeable under 11 U.S.C. §523(a)(6), which excepts claims for “willful and malicious” injury. The court surveyed the extent and somewhat discrepant standards for finding “willful and malicious” conduct articulated by three federal circuit courts of appeals. It granted the plaintiff’s motion for summary judgment and denied the debtor/defendant’s motion to retry the matter before the bankruptcy court. Specifically, the court held:

"[W]hen a court of the United States issues an injunction or other protective order telling a specific individual what actions will cross the line into injury to others, then damages resulting from an intentional violation of that order (as is proven either in the bankruptcy courts or the issue court to be a full and fair opportunity to litigate the question of violation and violation) in the issuing court are ipso facto the result of a ‘willful and malicious’ injury." (In re Park, 266 B.R. 348 (Bankr. W.D.N.Y. 1999)).

The only reported decision identified by the bankruptcy conference report that would support the creditor’s position is United States v. Wells, 188 B.R. 679 (Bankr. D. Mass. 1995), where the court held that a debtor’s previously incurred civil sanctions for violation of a TRO creating a buffer zone was dischargeable under 11 U.S.C. §523(a)(6), which excepts claims for “willful and malicious” injury. The court surveyed the extent and somewhat discrepant standards for finding “willful and malicious” conduct articulated by three federal circuit courts of appeals. It granted the debtor’s motion for summary judgment and denied the creditor/defendant’s motion to retry the matter before the bankruptcy court. Specifically, the court held:

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The PRESIDING OFFICER (Mr. L. CHAFEE). The Senator from Utah, Mr. HATCH. Mr. President, this consumer bankruptcy reform legislation is one of the most important legislative efforts to reform the bankruptcy laws in decades. That is the case. I am distinguished friend and colleague from Iowa for his hard work on this, of course, the distinguished Senator from New Jersey, and so many others, Senator BIDEN from Delaware. There are many others as well.

This is important. Before talking about the substance of the legislation, I personally thank the majority leader who has worked hard and tirelessly to keep this legislation on track despite the massive opposition that has faced---- I have to say phony obstacles at that.

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

I also acknowledge and thank the ranking member of the Senate Judiciary Committee, Senator LEAHY, who has worked with me and Senator GRASSLEY and Torricelli, chairman and ranking minority member of the Subcommittee on Administrative Oversight and the Courts, respectively, for their hard work in crafting this much needed legislation and for their unrelenting commitment to making it work.

As I have mentioned, my praise also goes to Senator Sessions and Senator BIDEN, who have shown unwavering dedication to accomplishing the important reforms in this bill, and to the many other Members of the Senate for their hard work and cooperation.

I was deeply troubled by a comment made on the floor yesterday by a colleague on the other side of the aisle to the effect that this bill was written by Republicans and is being forced upon Senate Democrats. Nothing could be further from the truth. I am compelled to set the record straight on this important point. The entire development of this bill has taken place in a bipartisan manner. In fact, throughout the entire process of consideration of this bill, beginning as long ago as the drafting stage, numerous changes suggested by Senate Democrats were agreed to and were done with the full bipartisan cooperation and support of the Senate negotiators.

It is no secret that in the informal conference process, we worked together with Senate Democrats. And with rare exception, the provisions that are contained in the final conference product were agreed to and were done with the full bipartisan cooperation and support of the Senate negotiators. Furthermore, in an effort to reach a bipartisan agreement and address concerns of the Senate Democrats, the majority leaders made many concessions and a good faith effort to resolve differences and move forward with the long overdue comprehensive bankruptcy reform.

Here on the Senate floor, the assertion was made that not a single organization that advocates child support was included. It is true that the majority leaders made many concessions and a good faith effort to resolve differences and move forward with the long overdue comprehensive bankruptcy reform.

Here on the Senate floor, the assertion was made that not a single organization that advocates child support was supported this bill. I simply cannot allow that kind of misrepresentation to stand uncorrected. In fact, there is tremendous support for this legislation from child advocates.

I would like to express our membership’s unqualified support. A letter from Laura Kadwell, President of the National Child Support Enforcement Association, representing over 60,000 child support professionals across America:

I am writing to urge you to support the Bankruptcy Reform Act of 2000. NCSEA is committed to ensuring that both parents fulfill their responsibilities to provide economic and financial support to their children—including honoring legally-owed child support obligations. The pending legislation will forward this goal significantly.

In a letter from Howard Baldwin, President of the Western Interstate Child Support Enforcement Council, an organization comprised of child support professionals from the private and public sectors west of the Mississippi River:

If I were a fly on the wall, I would like to express our membership’s unqualified support.

The resolution of the California Family Support Council, consisting of approximately 2,500 persons employed by...
counties and State agencies which administer the Federal child support program in California:

Now therefore be it resolved that the California Family Support Council ** * directs the president of the California Family Support Council to convey to the California congressional delegation and to the President its enthusiastic endorsement of the Bankruptcy Reform Bills.

How about a letter from Betty D. Montgomery, attorney general of the State of Ohio:

As the chief law enforcement officer for [Ohio], I stand committed to protecting our most vulnerable citizens. Frankly, I was outraged to learn of the many ways deadbeat parents were manipulating and abusing the current bankruptcy system in order to get out of paying their domestic support obligations. I am proud that the improvements we are making to the law in bankruptcy law in terms of ensuring that parents meet their child support and other domestic support obligations in bankruptcy.

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

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

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

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

I am also happy to say that the conference report prevents deadbeats from using the automatic stay in bankruptcy to avoid paying their support obligations. The bankruptcy reform stops deadbeat parents from abusing the automatic stay.

The conference report prevents deadbeats from using bankruptcy's automatic stay, according child support with this legislation. The automatic stay cannot be used to put a hold on the interception of a deadbeat parent's tax refund to pay support. The automatic stay cannot be used to prevent the reporting of overdue support owed by deadbeat parents to any consumer reporting agency. The automatic stay cannot be used to prevent the withholding, suspension, or restriction of driver's licenses, professional and occupational licenses, and recreational licenses when deadbeats default on domestic support obligations.

And suspending the driver's license of the deadbeat parent can be a very effective way of getting them to pay the child support they owe. This is important stuff. It has taken a lot of time to get this done. We will pass this bill. But if the administration doesn't accept this bill and it winds up vetoing it, it will be a tragedy.

These are just a few of the many improvements the conference report makes in this area as compared with current law. I have had a long history of advocating for children and families in Congress and throughout my legal career. I support a conference report that puts child support first in line ahead of the lawyer's fees and that doesn't let debtors who owe child support turn their backs on children when they file for bankruptcy.

In another provision I authored, the conference report protects for the first time in bankruptcy education savings accounts set up by parents and grandparents for their children and grandchildren.

All things considered, it is pretty simple. A vote for this conference report is a vote for our Nation's kids. I just look at the bankruptcy consumer provisions. A vote for this conference report is a vote for consumers. The legislation includes a whole host of new consumer protections that do not exist under current law, such as:

- New disclosure by creditors and more judicial oversight of reaffirmation of agreements to protect people from being pressured into onerous agreements;
- A debtor's bill of rights to prevent the bankruptcy mills from preying upon those who are uninformed of their rights;
- New consumer protections under the Truth in Lending Act, such as required disclosure regarding minimum monthly payments and introductory rates for credit cards;
- Penalties on creditors who refuse to negotiate reasonable payment schedules outside of bankruptcy;
- Penalties on creditors who fail to properly credit plan payments in bankruptcy;
- Credit counseling programs to help avoid the cycle of indebtedness;
- Protection of educational savings accounts; and
- Let me protect for retirement savings in bankruptcy.

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

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

A vote for the conference report also is a vote to stop allowing a few wealthy individuals to abuse the homestead exemption. The conference report tackles the problem of the homestead exemption. Although rare, that problem is offensive to those of us who work hard to make good on our debts.

The conference report reaches a compromise which targets the major abuse of bankruptcy by those who move to States with generous homestead exemptions purely in order to file bankruptcy and keep an expensive home. Although this reform provision does not go as far as some of us would like, without it we are back to business as usual.

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

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save for retirement. I mentioned earlier that the conference report contains my provision to provide equal treatment for retirement savings plans in bankruptcy. For example, the retirement savings of teachers and church workers, as well as those of other gainfully employed individuals, are treated equally in bankruptcy as much as everyone else. They deserve nothing less.

A vote for the conference report is a vote for our country farmers and the men and women who work hard every day in the face of many challenges. Without bankruptcy reform, family farmers lose out on the special bankruptcy protections they need in chapter 12.

I urge my colleagues to think for a moment about the children, the consumers, families, and farmers who will end up getting hurt if comprehensive bankruptcy reform is not enacted this year. I urge my colleagues to support and cast a vote for them and to support this bankruptcy reform.

I am grateful to the President of the United States to sign this bankruptcy reform into law.

Mr. SESSIONS. Mr. President, I thank Senator HATCH for his leadership on this bankruptcy bill and for shepherdling it through the Judiciary Committee.

I remember distinctly when we first began to discuss the problems of children, alimony and child support, the leadership and the firm position Senator HATCH took to guarantee that children and alimony payments would have an enhanced position in bankruptcy, much higher than it had ever been before. That was the goal of Senator HATCH, who has worked on this bill and previous bankruptcy bills and studied this.

I am looking at a letter from some professors who don't seem to get it. But the Senate has studied and sponsored the amendment that made some of these drastic changes.

Is there any doubt in your mind, Senator, that the children will benefit from those child support payments, and women will have more protections for alimony payments under this bill that we are about to pass than if the bill does not pass?

Mr. HATCH. I thank the Senator for his very intelligent question. There is no question that this bill will make dramatic changes in bankruptcy laws to the benefit of children, parents, families, farmers—just name them—in large measure because of the work of the distinguished Senators, Mr. GRASSLEY, Mr. TORRICEILLI, and others, including our ranking member Senator LEAHY, and especially the distinguished Senator from Alabama.

The distinguished Senator from Alabama has been here just long enough to show how effective he is and what a perfect job he has done on the Judiciary Committee. He is a truly personally committed Senator. He has played a significant and noble role in this bill, as have others, but, in particular, I consider him one of the best lawyers, one of the best legal practitioners in this whole body. I am very proud of the work the Senators and so many others have done on this bill, without which it would have been much tougher for me as chairman of the committee. This bill has made a difference in the lives of the children of this country.

If we don't have this bill put on the law books of this country, families, children, farmers, consumers, and others are going to be drastically hurt. Yes, the bill is absolutely perfect, but we have too many people at cross-purposes. But we have worked every day this bill has been in existence with our colleagues on the other side. That is why we have a number of them who are willing to support this bill, not only willing but enthusiastically so do.

We couldn't have come this far without the work of the distinguished Senator from Alabama. I have great respect for the Senator and I am grateful thus on the floor today. I am grateful the Senator is one of the people who is helping to make the case for this bill. There are good people on both sides of the aisle, good people who understand these important matters, good people who know that children are a focal point of much of this bill.

I thank the Senator for his question.

The PRESIDING OFFICER. The President.

Mr. HATCH. I yield such time as he shall need.

The PRESIDING OFFICER. The Senator from Alabama?

Mr. SESSIONS. Mr. President, we have had quoted on the floor a letter from a group of professors that expressed opposition to this bankruptcy bill. I think we owe it to those who have quoted from it to treat the letter seriously and analyze item by item the complaints they have made and discuss it on the floor. I must say that after examining the letter carefully, I must take issue with the professors' conclusions. They point to the points that they raise fairly and honestly, and to state the situation as I see it. In fact, I think it is quite plain. The professors are wrong and they are making misleading statements about it.

For example, the letter from the professors says:

Women and children will have to compete with powerful creditors to collect their claims and they will have to compete with anyone before, during, or after bankruptcy for these key assets. In fact, a mother, for child support, can take the home—the home still has a mortgage of a deadbeat dad and take other assets that he has that otherwise under current law would be exempt. It is a major step forward for the rights of children.

The letter from the professors further says:

Credit card claims increasingly will be excepted from discharge and remain a legal obligation after bankruptcy.

The fact is, the bill excludes only credit card debt incurred by fraud non-dischargeable, just like taxes and child support are nondischargeable. Debtors who defraud creditors should not be able to discharge their debts in bankruptcy and not pay them. They only want to be able to discharge these debts they lawfully incurred. That is the current law. That is the law today. You cannot discharge fraudulent debts. In addition, of course, credit card debt is the last priority to be paid if you have to pay anything. It is a non-secured debt. It is the last priority to be paid in the list of priorities.

This letter goes on to say:

Large retailers will have an easier time obtaining reaffirmations of debt that legally could be discharged.

That is absolutely false. I was charged by Senator GRASSLEY to meet with Senator Reid and the representa-tives from the White House to develop reaffirmation language that would strengthen protections for people who were asked to reaffirm debts.

Frankly, reaffirmations are not all that bad. Many times, people have reason to want to reaffirm their debts and keep their washing machine, their TV, their furniture, their automobile they use to get to and from work. They want to keep it. They reaffirm their debt and they do not lose it. So we worked out language to which the White House agreed. It strengthens the protections provided to those debtors. It was language agreed-upon in a bipartisan way.

The letter further says:

Giving first priority to domestic support obligations—

Which is in the bill, giving them first priority of payment—

does not address the problem, and that 95 percent of bankruptcy cases make no distributions to any creditors because there are no assets to distribute.

First, the money is going to the bankruptcy court and to lawyers. In our rule, children would be above the courts and the lawyers. "Granting women and children a first priority permits them to stand first in line to collect nothing," the professors say. But the fact is, the means test will place above median income-deadbeat dads in Chapter 13 if they can afford to pay back some of their debt—median income for a family of four, by the way, is about $45,000. So, to reiterate, deadbeat dads who are above median income, will be forced into chapter 13 (instead of being allowed to stay in Chapter 7) if they can afford to pay back some of the debt they owe—maybe it is 20 percent, maybe it is 30 percent—but they will be put into chapter 13 to pay that. And for 5 years the judge can order them to pay on those debts what percentage he or she believes the debtor is financially able to pay and maintain a decent standard of living.
But what is first? What is first paid by that deadbeat dad? His alimony and child support. He would be under court-monitored supervision and direction to pay the first fruits of his income directly in the form of child support and alimony to his former spouse and children, not to his lawyer, not to his bankruptcy judge helping ensure, for 5 years, the full payment of child support and alimony. I believe that is going to be a historic step forward. In fact, this will place women and children in a higher level than they have ever been before.

The letter further says:

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

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

Further, I believe the bill will provide more assets for distribution to women and children than before, during, and after bankruptcy. Before bankruptcy, debtors will receive credit counseling information which will help keep fathers on a budget, teach them how to maintain a budget, and out of bankruptcy and paying their alimony and child support. In the first place, During bankruptcy, deadbeat dads will be required to pay all past due alimony and child support and to undergo court supervision for up to 5 years under chapter 13, as they pay their No. 1 priority, child support claims.

After bankruptcy it is much more likely that a father who has undergone credit counseling, who has been subjected to 5 years of court supervision of his finances, and where alimony and child support were the first things he was required to pay and where he knew that he cannot shield his exempt assets from alimony and child support, will be up to date on all his payments if he has gone through that process—much more so than today.

I see Chairman GRASSLEY is here. I had a number of matters, but I know he would like to wrap up at this time.

Mr. GRASSLEY. No, I do not want to wrap up. It is effective for me to have permission to interrupt the Senator and for him not to lose the right to the floor. I would like to say something for 30 seconds on the bill, if I could.

There has been a report since early today about the White House, or personnel at the White House, calling Democrats who have always supported the bill to vote against it. I am not sure I know exactly why the White House is calling and saying that, but I presume it is something they would like to have fewer folks than the two-thirds we had on the cloture to override a veto, if the President would veto this bill. I don’t know that the President would veto it. I know there are a lot of people at the White House who would like to have him veto it.

I say to those Democrats who have voted and supported this legislation so much over the last 3 years, particularly on that 83-14 vote by which it passed, I hope they will not respond to that kind of pressure from the White House. I hope they know CHUCK GRASSLEY well enough to know that if I had voted for a bill in the Reagan administration or the Bush administration, then for a Republican President or Reagan or his staff, or a President Bush or his staff, called me up and asked me to change my mind just to protect the President, if I would do it—I would not do it. I hope they would not do.

I return the floor to the Senator from Alabama.

Mr. SESSIONS. I thank the chairman.

Mr. President, what is the situation? Are we still set for a vote?

The PRESIDING OFFICER. We are set for a vote at 3:45. The Senator has 1½ minutes remaining.

Mr. SESSIONS. Mr. President, I have at least six or seven more items that I could refer to from the professors’ letter that I believe are based on complaints about an early version of the bill, matters that are not even in the bill today, and other items that are completely distorted in how it affects the poor people today.

Let me simply say this: We need bankruptcy reform. We have shown a doubling of bankruptcy filings in the last decade.

It is time for us to move this bill forward to create a body of law that is less subject to abuse than current law, to close many of the loopholes or at least partially close them.

The fact we have not been able to do anything is not a basis to object. In my view, it is the enemy of the good. This is a good bill. I would like to see all the homestead exemptions removed, at least as we agreed earlier. Senator GRASSLEY supported that. The House would not agree. We got half the problems of homestead eliminated in this bill.

If we do not pass the bill, we will have the current law which has a host of problems and none of them fixed.

That is where we are. We have a good piece of legislation on the Senate floor. GRASSLEY has done a magnificent job of listening to everybody and working out an agreement that is acceptable. Chairman HATCH has likewise been tough in trying to complete this bill. I believe we have a good piece of legislation, and I hope the vote will be overwhelming again today.

Mr. HATCH. As chairman of the Senate Judiciary Committee, I have a question for the chairman of the subcommittee and principal author of H.R. 2415. Because we were forced to proceed in an unconventional procedural manner with respect to this legislation, can you provide any guidance for courts and practitioners on it?

Mr. GRASSLEY. Certainly. The following is what H.R. 2415 does:

H.R. 2415

BACKGROUND AND NEED FOR THE LEGISLATION

The bankruptcy system is currently in a state of crisis. In recent years, America has witnessed a dramatic explosion in the number of bankruptcy filings. According to statistics from the Administrative Office of the United States Bankruptcy Court, the number of bankruptcy filings has exploded from 331,000 in 1980 to just under 1.4 million in 1999. It is a matter of serious concern to Congress that bankruptcy reform comes at a time of unprecedented prosperity, with low unemployment and high wages. Unemployment is at an all-time low. Consumer confidence, and the Dow Jones Industrial Average at one point above 10,000 mark. Thus, the high rate of bankruptcy filings cannot reasonably be attributed to a slow economy.

This state of crisis has a significant negative impact on the American economy. According to the Department of Justice, credit losses doubled over the last 3 years, particularly on Chapter 7 cases. As a result of Chapter 7 bankruptcies filed by individuals who could repay their debts. Obviously, the existence of a multi-billion dollar losses attributable to high levels of bankruptcy filings is a clarion call for Congress to reform our bankruptcies laws to require bankrupts who could repay some portion of their debts to do so.

Given the strong performance of the economy, many feel that the recent explosion in bankruptcies is likely to be a result of the plurality of individuals who would have struggled to meet their financial obligations.

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Given the strong performance of the economy, many feel that the recent explosion in bankruptcies is likely to be a result of the plurality of individuals who would have struggled to meet their financial obligations.
their financial obligations in the past are filing bankruptcy today in record numbers. See Judge Edith H. Jones and Todd J. Zywicki, "It's Time for Means Testing," 1999 B.Y.U. L. Rev. 37. A recent study of a group of filings that almost half of filers learned about their option to file for bankruptcy from friends or family. See, e.g., Vern McKinley, Balancing Bankruptcy: Issuing Blame for the Explosive Growth," Regulation, Fall 1997, at 38. At the same time, there have been strong expressions of concern from the Federal Trade Commission that attorney advertising is leading consumers to file bankruptcy without being fully informed.

It is the strong view of the Congress that the Bankruptcy Code's generous, no-questions-asked policy of providing complete debt forgiveness under Chapter 7 without serious consideration of a debtor's ability to repay is deeply flawed and encourages a lack of personal responsibility. Both H.R. 855 and its Senate counterpart S. 625 proposed amendments to section 707(b) of the Bankruptcy Code to require bankruptcy judges to dismiss a Chapter 7 case, or convert a Chapter 7 case to another chapter if a bankrupt has a demonstrable capacity to repay his or her debts. HR 2415 maintains the section 707(b) structure. In general, the agreement embodied in HR 2415 used S. 625 as the base for the means test. Like S. 625, a presumption arises that a Chapter 7 bankrupt should be dismissed from bankruptcy or converted to another chapter if after taking into account secured debts and priority debts as well as living expenses, the bankrupt can repay over 5 years the lesser of 25 percent or more of his or her general nonpriority unsecured debts (but at least $6,000), or $10,000. This test requires those with greater debts to pay proportionately more than those with smaller debts. For example, the cases of debtors whose unsecured, priority debts are over $100,000 will be dismissed under the means test if their projected ability to repay over 5 years is over $10,000, even though that is considerably less than 25 percent of their debt. Conversely, the cases of debtors whose debts in that category are less than $36,000 will only be dismissed under the means test if their projected ability to repay over 5 years is less than 25 percent of their debts.

The purpose of Chapter 13 is to rehabilitate financially-troubled consumers by using future earnings to repay debts in exchange for a discharge of the unpaid portions of those debts. Two other chapters are also available to individual debtors, but are only rarely used by consumers. Chapter 11, usually used by businesses, permits a debtor to reorganize and pay all of his or her debts. Chapter 12 permits a well-to-do debtor to negotiate a plan of reorganization of the debtor's financial affairs with creditors, and in some instances forces that plan to be implemented. In Chapter 7, the focus of bankruptcy reform is on giving the bankrupt a fresh start. The bankrupt has a demonstrable capacity to repay his or her debts and is not new. This topic has been the subject of many proposed amendments, from the Chandler Act in 1938. 52 Stat. 840 (1938). Prior to the Bankruptcy Reform Act of 1978, Pub. L. 95-104, 91 Stat. 1057 (1977), and the Consumer Credit Protection Act of 1987, Pub. L. 100-92, 101 Stat. 559 (1987), the debtor's ability to repay was not a consideration. Chapter 13 was re-introduced in the 98th Congress as S. 613 and H.R. 3866. Section 75 of this bill would have established a repayment plan for wage earners. Section 75 provided a method for an indebted wage earner to come into court without being labeled "bankrupt," and get the benefit of a court injunction to fend off creditors while the wage earner arranged to repay his debts. Congress did not pass either the 1971 or the 1973 amendments. In the mid 1930's in Birmingham, Alabama a former special referee in bankruptcy, Valentine Nesbitt, first developed a "means test" which was the model for Chapter XIII. See Weinstein, The Bankruptcy Law of 1938 (1938).

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The debate over Chapter XIII occurred years earlier in joint hearings before the House and Senate Judiciary Committees in 1932, during the Seventy-Second Congress. By the time it was enacted in 1938, Chapter XIII codified informal practices which had developed without explicit congressional authorization. In the mid 1930's in Birmingham, Alabama a former special referee in bankruptcy, Valentine Nesbitt, first developed a "means test" which was the model for Chapter XIII. See Weinstein, The Bankruptcy Law of 1938 (1938).

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to proceed under Chapter 13 instead of Chapter 7. However, the term ‘substantial abuse’ was not defined and creditors and trustees were expressly forbidden from presenting evidence to show that granting relief in a particular case would result in a ‘substantial abuse.’

Despite Congress' intent that section 707(b) would be an inappropriate use of Chapter 7 by those with ability to pay, that section has not been effective. Although many factors are at work, much of the reasoning for this ineffec- tiveness is the ingrained point of view that ‘honest’ debtors have a ‘right’ to a chapter 7 discharge even when they have ability to pay. To illustrate, the Fourth Circuit Court has taken the ‘special cir- cumstances’ approach to determining whether there is substantial abuse. In re Green, 934 F. 2d 568 (4th Cir. 1991) (‘totality of circumstances’ test is appropriate when deciding section 707(b) cases in which ability to repay can be outweighed by other factors, like the debtor's good faith or honesty). Some bankruptcy judges have taken the totality of the circumstances approach sug- gested by In re Green as a justification for either ignoring ability to pay completely, or considering ability to pay must do so.

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HR 2415 requires the Federal Reserve Board to promulgate a table that would set forth information for use by credit card issuers in responding to cardholders who make inquir- ies through telephone services. Finally, the Federal Reserve Board is au- thorized to study the types of information available to consumers regarding factors  qualification of potential borrowers for credit extension requirements, and the consequences of default, including information related to minimum payments. The study would in- clude, among other things, the extent to which the availability of low minimum payment options is a cause of consumers experiencing financial difficulty.

HR 2415 amends TILA to require cert- ain applications or solicitations for credit cards that include an introductory rate of less than one year, and all promotional ma- terial accompanying such an application or solicitation, to include the following rel- ating to introductory rates:

—use the term “introductory” in imme- diate proximity to each listing of the intro- ductory rate; and

—disclose when the introductory period will end and the annual percentage rate that will apply at the end of the introductory pe- riod.

In addition, HR 2415 requires a credit card issuer to clearly and conspicuously provide disclo- sures regarding the key features of the credit plan, such as interest rate and basic fees, with Internet-based credit card applications and such disclosures must be readily accessible to consumers in close proximity to the solicitations and these disclo- sures must be updated regularly to reflect the current payment terms, and fees and amounts applicable to the credit card account. HR 2415 also provides that, if a lender imposes a late fee for failing to make payment by the payment due date, the lender must state on each periodic statement the payment due date or, if the card issuer contractually estab- lishes a different date, the earliest date on which the payment due fee may be imposed. The lender also must state the amount of the fee that will be assessed if payment is received after that date.

Importantly, HR 2415 amends TILA to pro- vide that an open-end creditor cannot termi- nate an account prior to its expiration date solely because the consumer has not in- curred finance charges on the account.

New disclosures are now required in con- nexion with consumer credit plans secured by the consumer’s principal dwelling in which credit may exceed the fair market value of the dwelling. Under the amendment, a creditor must disclose at the time of the credit application an application to the consumer for such a plan that interest on the portion of the credit extension that is not secured will be assessed if payment is received after that date (or, if the card issuer contractually estab- lishes a different date, the earlier of the date of confirmation of a plan or after the date of the order for relief “only
upon prior written consent of the lessor.' The Senate bill provided that such a lease would be deemed rejected if the trustee has not acted by the earlier of the date of confirmation or 180 days after the date of the order for relief. No additional extension is permitted except "upon written consent of the lessor." By contrast, HR 2415, then, were quite similar, especially in denying bankruptcy judges discretion in extending the deadline for assuming or rejecting a lease after an absolute period following the order for relief—210 days in the former and 120 days in the latter. Both the Departments of Justice and the Interior favored a 120 day deadline, with no discretion in the bankruptcy judge.

HR 2415 provides that an unexpired nonresidential real property lease is deemed rejected if the trustee has not acted by the earlier of the date of confirmation of a plan or the date which is 120 days after the date of the order for relief. The court may extend the 120 day period for an additional 90 days, prior to the expiration of the 120 day period, upon motion of either the trustee or the lessor for cause, for a total of 210 days after the date of the order for relief. If the court has granted such 90 day extension, the court may grant a subsequent extension only upon prior written consent of the lessor. This can be satisfied in any of the form of (1) a motion of the lessor or (2) a motion of the trustee, provided that the trustee has a prior written consent of the lessor. Finally, HR 2415 clearly retains both bills' denial of bankruptcy judges' discretion in extending this date: in no circumstance may the time to assume or reject an unexpired nonresidential real property lease extend beyond the earlier of (1) the time of confirmation or (2) 210 days from the time of entry of the order for relief, without the prior written consent of the lessor, in the form of a lessor's motion, or in the form of a prior written consent to a trustee's motion, in any event. Moreover, whether or not prior written consent to one extension beyond the 210 period does not constitute such consent for a subsequent extension: each such extension beyond 210 days requires the separate written consent of the lessor.

Finally, HR 2415 adds language to Section 365 (f)(1) of the Bankruptcy Code for the purpose of assuring that section 365 (f) does not override any part of Section 365(b). HR 2415 provides that section 365(f) is not only subject to Section 365(c), but also to Section 365(b). The purpose is to give full effect to contrary legal interpretations in case law are overturned.

SEC 2. SECTION EXPLANATION.

TITLE I—NEEDS BASED BANKRUPTCY

Sections 101-103: Dismissal for Abuse and the Means Test

These three sections expand present Section 707(b) of the Bankruptcy Code to require a court to dismiss a chapter 7 petition filed by an individual debtor whose debts are primarily consumer debts (or with the debtor's consent, convert to another bankruptcy chapter) if the debtor can prima facie show that he or she cannot pay all debts as scheduled. Present law already requires that an individual debtor's case be dismissed if it is a "substantial abuse" and the debtor's debts are primarily consumer debts, but it creates a presumption against dismissal and prevents anyone other than the court or the United States Trustee from initiating any dismissal. HR 2415 has been amended to present Section 707(b) is not effective to prevent inappropriate use of chapter 7, and in particular debtors who have ability to repay their debts from using chapter 7 to order 210 days to obtain a discharge without repaying creditors what they can afford, needlessly costing consumers who pay their bills in higher rates.

These sections reorganize present Section 707(b) to change the standard for dismissal from "substantial abuse" to "abuse" in order to provide strengthened controls against abusive use of chapter 7. They also replace the presumption against dismissal with a presumption of dismissal if the debtor has ability to pay as determined by a new means test. These changes are intended to broaden rather than limit controls on inappropriate use of chapter 7, and the means test may be otherwise entitled to priority, it is intended that they be accounted for under this specific affirmative use of chapter 7, and not accounted for under the provision for priority expenses.

Actual expenses for private elementary or secondary school tuition not exceeding $3,500 per child per year are also deductible.

Once the monthly expense allowances are determined, they are then subtracted from the debtor's net monthly income to obtain the debtor's net monthly income. Net income is then multiplied by 50. If the result is greater than the lesser of a threshold amount of (1) $3,000 or (2) 50% of the nonpriority unsecured claims in the debtor's case but not less than $6,000, there is a presumption that the debtor's case must be dismissed from chapter 7.

This presumption may be rebutted if there are special circumstances that justify adjustments to income or expenses for which the debtor reasonably claims such additional expense or income adjustment. In addition to meeting the special circumstances test and demonstrates there is no reasonable alternative to the expenses or income adjustment. If it is determined that special circumstances as described do exist, the debtor may recalculate income and expenses based on the adjustments and apply the threshold resulting net income. This consumption can only be rebutted by demonstrating that an expense or income adjustment appropriate under the special circumstances test causes the debtor's net income to be below the applicable threshold amount.

An important additional feature of the means test is the "safe harbor." If the debtor's current monthly income is less than the appropriate state median income as determined by current statistical information supplied by the Bureau of the Census, then the debtor, United States Trustee, bankruptcy administrator, or trustee may bring a motion under section 707(b). The safe harbor provides further limits motions against debtors whose current monthly income is less than the appropriate state median income as determined by current statistical information supplied by the Bureau of the Census, in that for such debtors, neither the judge, the United States Trustee, the bankruptcy administrator, a private trustee nor a party in interest can bring a motion to dismiss under the special circumstances test of the means test. It is expected that the Bureau of the Census will promptly make available state median income information by family size for households of 1-4 members based upon information it collects. For these purposes, a family or household consists of the debtor and the debtor's dependents, and in a joint case, the debtor's spouse. The median income for families larger than 4 persons is determined by taking the monthly median income for a family of 4 and adding $250 to that figure. Additional family members are deemed to have additional income for purposes of the means test.

Under subsection (e) of section 102 of HR 2415, creditors are permitted to report information concerning a debtor's failure to satisfy the means test to the United States Trustee, bankruptcy administrator, case trustee or judge assigned the
Administration of the means test.—Several important additional provisions assist in the efficient administration of the means test. Enforcement of the means test is in the first instance the responsibility of the United States trustee or bankruptcy administrator for the district in which the chapter 7 case is pending. The United States trustee or bankruptcy administrator is charged with determining whether debtors have accurately disclosed their income and expenses, and in preliminarily reviewing debtor’s claims that special circumstances exist which justify adjustments to otherwise allowed monthly income and expense amounts. Case trustees, creditors, and debtors are entitled to investigate means test issues and raise them by motions to dismiss, or by bringing them to the attention of others involved in the enforcement of the means test. When the debtor’s chapter 7 petition is first filed, the court is to review the debtor’s income and expense schedule and determine whether this is a case in which the presumption in favor of dismissal applies. That will be determinable on the face of the schedules, since debtors are required to do the necessary calculations of the means test threshold. If the presumptions arise, the court is to notify creditors within ten days after the case is filed. Next, the United States trustee or bankruptcy administrator is to file with the court a statement whether the debtor’s case would or would not be converted under the means test of section 707(b) not later than 10 days after the date of the first meeting of creditors. Moreover, if the debtor’s current monthly income is in excess of the applicant’s median income for the applicable filing jurisdiction, the United States Trustee or bankruptcy administrator is to file with the court a statement whether the debtor’s case would or would not be dismissed under section 707(b). Next, the United States trustee or bankruptcy administrator must also either file with the court a motion to dismiss, or a statement why no motion is being filed. However, if the debtor’s gross income is between 100% and 150% of median income, and the debtor’s net income determined in a special short-hand calculation based on core expenses is under the threshold, the trustee or administrator must also either file with the court a motion to dismiss, or a statement why no motion is being filed. If a debtor’s case would or would not be dismissed under section 707(b), creditor or trustee, as well as the United States Trustee or bankruptcy administrator, must also either file with the court a motion to dismiss, or a statement why no motion is being filed. If a debtor’s case would or would not be dismissed under section 707(b) in a bankruptcy case, the court will dismiss a Chapter 7 case only if the debtor’s case would or would not be dismissed under section 707(b). If a debtor’s case would or would not be dismissed under section 707(b) in a bankruptcy case, the court will dismiss a Chapter 7 case only if the debtor’s case would or would not be dismissed under section 707(b).

To determine disposable income for those over the applicable median income level, first, current monthly income as defined in 11 U.S.C. § 164 is determined. From that amount, amounts reasonably necessary to be expended for the maintenance and support of the debtor or a dependent of the debtor are deducted. Additional amounts provided for the expenses of providing support and maintenance are to be determined in accordance with the standards of section 707(b)(2)(a) and (b). Thus, the debtor is allowed the amounts permitted for food and housing under National Standards and Local Standards issued by the Internal Revenue Service. Actual expenses for other amounts in categories specified as Other Necessary Expenses are also allowed, just as when applying the means test. Expenses for secured debts which are paid outside of the plan must be determined as the cost of preserving the property, and the United States trustee or bankruptcy administrator must also include in determining the debtor’s disposable income the amount paid to pay secured creditors. The means test is designed to determine a debtor’s ability to pay unsecured creditors. If a debtor’s case would or would not be dismissed under section 707(b), creditor or trustee, as well as the United States Trustee or bankruptcy administrator, must also either file with the court a motion to dismiss, or a statement why no motion is being filed. If a debtor’s case would or would not be dismissed under section 707(b) in a bankruptcy case, the court will dismiss a Chapter 7 case only if the debtor’s case would or would not be dismissed under section 707(b). If a debtor’s case would or would not be dismissed under section 707(b) in a bankruptcy case, the court will dismiss a Chapter 7 case only if the debtor’s case would or would not be dismissed under section 707(b).
This provision establishes the requirement that before individual debtors file for bankruptcy, they must be made aware that credit counseling services are available. Debtors are not required to actually undergo credit counseling, but they must be made aware that such alternatives to bankruptcy do exist. The case of a debtor must be dismissed if it is shown that the debtor, by a failure to attend or by an unwillingness to attend a credit counseling session or by a failure to meet with an agency approved by the United States Trustee, has not obtained a credit counseling service within 14 days after the first creditors' meeting, and that the failure to attend the credit counseling session was not the result of causes beyond the control of the debtor.

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

Credit counseling agencies and courses of instruction concerning financial management included in the program must be approved by the United States trustee or bankruptcy administrator for the district. This section sets standards which the United States trustee or bankruptcy administrator must apply in determining whether to approve any particular agency or course. Prior to approval, the qualifications of the agency or course are to be carefully reviewed by the United States trustee or bankruptcy administrator. It is intended that they will require applicants to provide adequate information about qualifications and programs for this purpose. Agencies and courses will be initially approved only for a probationary period of no more than 6 months. After that, their qualifications and performance will be reviewed by the United States trustee or bankruptcy administrator. Review of the United States trustee or bankruptcy administrator’s decision to renew approval of an agency or course is available in the ordinary course of business to any party, but a party must make its request in writing not later than 30 days after the notice of the bankruptcy administrator’s decision.

Section 202. Effect of discharge
A creditor’s willful failure to credit plan payments in the manner required by the plan is a violation of the post-discharge injunction. Under this section, a creditor’s acts to collect and fail to credit payments in the manner required by the plan cause material injury to the debtor. If a creditor accepts any alternative repayment proposal, although it is expected that negotiation could result in reasonable alternative plans being adopted. Furthermore, the debtor’s proposal must provide for at least 60% repayment to the creditor. The debtor’s proposal should not be considered reasonable if it is unlikely the debtor will be able to make the repayments as proposed.

Section 203. Discouraging abuse of reaffirmation practices
This provision amends section 524(c)(2) of the Code to provide for a more workable and understandable disclosure form to explain the debtor’s rights and obligations in the reaffirmation process.

It is intended that a single nationwide form as set out in the statute will be used for all reaffirmations in all bankruptcy courts, and that it will be the only disclosure required in the reaffirmation process. Agencies and courses of instruction concerning financial management approved by the United States trustee or bankruptcy administrator for the district not later than 180 days after enactment. It is intended that the administrative expenses for these purposes include only the chapter 13 trustee’s fee as allowed in the district from time to time, and that the schedules will be revised as necessary to reflect the changes. The chapter 13 debtor’s fee is determined as a percentage of payments made to creditors, the Director may determine that the appropriate way to state the percentage amounts and a method for determining projected plan payments. These will generally just be unsecured unless there is a compelling reason to do otherwise.

TITLE II—ENHANCED CONSUMER PROTECTIONS
Section 201. Promotion of alternate dispute resolution
This section permits the court, on motion of the debtor and after a hearing, to require the creditor to negotiate a reasonable alternative repayment system proposed by an approved credit counseling agency acting on behalf of the debtor; (2) the debtor’s offer was made at least 60 days before the filing of the bankruptcy petition; and (3) the offer is for payment of at least 60% of the debt over the repayment period of the loan, or a reasonable alternative repayment schedule. For a consumer debt under the alternative repayment schedule is nondischargeable. An approved credit counseling agency means one approved under the credit counseling section of this Act.

This provision applies only to claims which are based on debts which are wholly unsecured consumer debts. The provision is also carefully tailored to provide for creditors to negotiate, when reasonable, alternative repayment systems so long as they are reasonable. It does not require creditors to accept any alternative repayment proposal, although it is expected that negotiations could result in reasonable alternative plans being adopted. Furthermore, the debtor’s offer must provide for at least 60% repayment to the creditor. The debtor’s proposal should not be considered reasonable if it is unlikely the debtor will be able to make the repayments as proposed.

Section 202. Effect of discharge
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Section 203. Discouraging abuse of reaffirmation practices
This provision amends section 524(c)(2) of the Code to provide for a more workable and understandable disclosure form to explain the debtor’s rights and obligations in the reaffirmation process.
to be broadly construed as honesty in fact under the circumstances. The narrow standard of good faith under the Truth in Lending Act is not intended.

The bankruptcy of present law are continued that debtors who do not have counsel who will certify that a reaffirmation is in the debtor’s best interest must have the reaffirmation approved by the court before it will be effective. Otherwise, a reaffirmation is effective upon filing the completed and signed statutory form and reaffirmation agreement with the court.

The provision also directs that United States attorneys in each district will designate a specific person within their offices to administer the reaffirmation process. The existence of domestic support in bankruptcy had developed somewhat haphazardly over time as new issues and concerns have been raised and addressed. Moreover, there is no lagged behind in dealing with the changing legal status of payments made to governmental entities for such obligations, specifically whether such payments were to be paid directly to support the child or family of the debtor, or were to be retained by the government because the parent or child was receiving public assistance.

Under current nonbankruptcy law the status of a support obligation may change rapidly as the recipient moves on or off governmental assistance. The narrow standing to support the child or family is unaltered. Thus, there is little reason for payments of domestic support obligations to governmental entities not to be treated equally with payments of such obligations directly to a parent or child, or for a debtor to have the option to pay to satisfy the obligation. Prior to HR 2415 the principle of favored treatment for all domestic support obligations had only been partially recognized in the Code and the treatment of debtors in which bankruptcy filings impacted domestic matters which were not dealt with at all.

Accordingly, Congress undertook a comprehensive analysis of the treatment of domestic support obligations under the Code to determine how to create a coherent and consistent structure to deal with such obligations in bankruptcy.

The following basic principles were employed in the support amendments contained in these provisions:

1. Bankruptcy should interfere as little as possible with the establishment and collection of on-going obligations for support, as allowed in State family law courts.

2. The Bankruptcy Code should provide a broad and comprehensive definition of support, which should then receive favored treatment in the bankruptcy process.

3. The Code should provide a mechanism to insure the continued payment of on-going support and support arrearages with minimal need for participation in the process by support creditors.

4. The bankruptcy process should be structured to allow a debtor to liquidate non-dischargeable debt to the greatest extent possible in the context of a bankruptcy case and emerge from the process with the freshest start feasible.

There were a number of areas under former law where these goals were not met. Support and debts in the nature of support were treated uniformly in the bankruptcy Code. Debts owed to the government and based upon the payment of government funds for the maintenance and support of the children or family of the debtor were treated uniformly. The bankruptcy Code affords to debts paying directly to the family of the debtor. Specifically, support debts assigned or owed to a governmental entity, or the debtor have not been entitled to any priority under section 523(a), have not been protected from loss of the discharge in section 522(f), and have not been recoverable by the trustee as a preference under section 547(c)(7)(A). Conversely, support debts which were not assigned or owed to a governmental entity were not entitled to superior treatment as provided in sections 507(a)(7), 522(f)(1), and 547(c)(7)(A).

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

In addition to the disparate treatment of support debts found in the Code, the courts also drew distinctions with respect to the dischargeability of such debts owed to the government and support debts owed to the parent or child of the debtor. These distinctions were often arcane and technical. To illustrate, the debts were owed to the government and based upon the payment of public assistance, the dischargeability of such debts turned on the irrelevant circumstance of payment to the government or the debtor directly.

Under former law the support debt had to be excepted from discharge the debt must be “in the nature of support.” Unlike the former law, a debt based upon assistance provided by a governmental unit for the benefit of a spouse, former spouse or child of the debtor, is now specifically included as a debt in the nature of support. This classification of whether or not a debt is treated by the debtor is specifically designated as support and whether or not the spouse, former spouse or child has a legal right to establish a support obligation.

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

Having created this definition of a “domestic support obligation,” HR 2415 uses it in two specific places. Section 211 of HR 2415 generally treats support related debts similarly, no matter how the debt arose or to whom the debt is owed.

Section 212. Priorities for claims for domestic support obligations

All domestic support obligation debts are given a first priority. Within that priority

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two categories of support debts are established. Support debts owed directly to support recipients, as of the date of the bankruptcy petition, are paid prior to debts owed or assigned to public or governmental units. Claims filed as priority 1(A) must be paid prior to claims filed as priority 1(B). When, however, such claims are filed by a governmental unit and the debtor defaults on the support payments on the claim, the subsequent application and distribution of moneys are governed not by the claim as it existed on the petition date, but by nonbankruptcy law applicable to such governmental units. Thus, receipt of money claimed as a priority 1(A) debt may be distributed by the governmental unit to relieve the debtor of its support obligations. The Code does, however, permit the governmental unit to continue to make any remaining support obligations, but would allow the debtor to be relieved from other debts covered by the general discharge under the Code. If the governmental unit may also credit any payment received on the claim against newly accrued postpetition judgment interest, rather than against the principal portion of the claim. The purpose of these rules relating to governmental support claims is to allow the distribution of money received as support in the same manner it would be distributed if the debtor had not filed a bankruptcy petition.

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

Section 213 sets up four checkpoints to ensure that debtors are complying with their domestic support obligations when they have filed a bankruptcy case under Chapters 11, 12, and 13. A case can be converted or dismissed at any time if the debtor does not remain current in the payment of all support first becoming due postpetition. Likewise, the plan, a support creditor had no way of implementing them. Payment of domestic support obligation arrears, in order to receive a discharge, must be fully provided for by the plan. Therefore, agreements made at the time of confirmation to accept less than full payment or the use of postpetition property of the debtor may allow the debtor to receive a discharge without full payment of all prepetition domestic support obligations. Of course, compliance is required to discharge any remaining domestic support obligations, but would allow the debtor to be relieved from other debts covered by the general discharge under the Code.

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

HR 2415 allows the court to commence an early termination of a plan when a debtor provided for full payment of the domestic support obligation, notwithstanding state law that would allow the debtor to be relieved from other debts covered by the general discharge under the Code.

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

This section makes all domestic support obligations non-dischargeable. The most significant effect of this change is that all debts owed to a governmental unit which are derived from payments by the government to meet needs of the debtor’s family for support and maintenance are excepted from discharge. This requirement will nullify the holdings in Matter of Davis, 170 F.3d 475 (5th Cir. 1999), which involved the nondischargeability of certain domestic support obligations. The most significant effect of this change is that all debts owed to a governmental unit which are derived from payments by the government to meet needs of the debtor’s family for support and maintenance are excepted from discharge. This requirement will nullify the holdings in Matter of Davis, 170 F.3d 475 (5th Cir. 1999), which involved the nondischargeability of certain domestic support obligations.
Section 522(f)(1) allows a debtor to avoid judicial liens on exempt property, but contains an exception for liens which secured unassigned child support. This section extends that prohibition to include a lien on funds which the obligor chooses to deposit with a third party and which may not otherwise be available to the obligee.

Section 215. Extension of protection to other education savings

This section defines various terms, including "qualified state tuition programs" and "qualified education resources." It provides that certain education savings plans may be protected from creditors' claims under the Internal Revenue Code. The section also provides that such savings plans may be used to pay qualified higher education expenses, which include tuition, fees, room and board, and other related expenses.

Section 226. Definitions

This section contains definitions for terms used in the Bankruptcy Code, including "qualified state tuition program," "qualified higher education expenses," and "qualified educational resources." It also provides definitions for terms such as "education savings plan," "qualified plan," and "plan asset."
This section creates a new section 526 of the Code which prescribes certain practices by debt relief agencies and provides for enforcement of violations of this section and new Code sections 527 and 528.

Enforcement is provided for any violations of new Code section 526, 527 or 528. Intentional or negligent failures to comply with any requirements of sections 526, 527 or 528 shall impose upon debt relief agencies injunctive relief or civil penalties against the agency for violation of any of these sections. The agency must provide, the agency must provide a clear and conspicuous written notice of the additional information debt relief agencies and provides for enforcement of violations of this section and new Code sections 527 and 528.

Enforcement is provided for any violations of new Code section 526, 527 or 528. Intentional or negligent failures to comply with any requirements of sections 526, 527 or 528 shall impose upon debt relief agencies injunctive relief or civil penalties against the agency for violation of any of these sections. The agency must provide, the agency must provide a clear and conspicuous written notice of the additional information debt relief agencies and provides for enforcement of violations of this section and new Code sections 527 and 528.

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Section 305. Relief from the automatic stay when the debtor does not complete intended surrender of consumer debt collateral

Like the previous section, this section is also intended to prevent "ride through" with respect to any collateral described in this provision. Any personal property of the estate or of the debtor securing a claim or subject to an unexpired lease under section 365 of the Code that is not redeemed or other proceedings in certain instances creditors will be protected by both this section and the previous section, in which case the provisions can be applied cumulatively.

The section provides that the automatic stay terminates if the debtor fails to timely (1) file a statement of intention covering the property and the lessor or secured creditor will not redeem the property under section 722 of the Code, reaffirm the debt it secures under section 524(c) of the Code, or assume any claim in a proceeding to discharge unless the plan must pay under section 1325(5)(B)(ii) of the Code as amended by HR 2415, or (2) take the action in the specified section of intention that the party to the lease or creditor specifies during the period set by section 521(a)(2) of the Code, or assume any claim under section 724 of the Code, or if the claim determined under nonbankruptcy law is not paid in full, and unless a prebankruptcy default has been fully cured or converted. If the claim is not converted from chapter 13 to another chapter and then converts to chapter 7, the court should impose similar limitations.

Second, provision is made to allow a debtor and creditor to arrange for the debtor to assume a personal property lease rejected or not timely assumed by a trustee. On the other hand, in a chapter 11 or 13 proceeding, if the plan does not provide for assumption of the lease, the lease is deemed rejected as of the date of the conclusion of the hearing on confirmation and the automatic stay automatically terminates.

Third, in a chapter 13 proceeding, a debtor or plan must provide that the debtor will make monthly payments if there are to be periodic payments to a personal property secured creditor or personal property lessor receiving distributions under the plan, and those payments must at least be in an amount sufficient to provide adequate protection. This provision is intended to lessen any of the other protections of secured creditors or lessors provided in the Bankruptcy Code.

In addition, debtors are required to continue to make payments to creditors holding claims secured by personal property and to personal property lessors, even after the order for relief. These payments are to be made directly to the creditor or lessor, and the amount of plan payments which must be made can be reduced by the amount paid to the creditors or lessors. The debtor must provide an accounting of these payments to the chapter 13 trustee.

Section 310. Luxury goods

This section provides that certain debts are presumed to be nondischargeable under section 523(a)(2)(B) of the Bankruptcy Code. Under section 523(a)(2)(A), a debt is nondischargeable when it is incurred, among other things, by fraud. For example, fraud can occur when a cardholder misrepresents his or her intentions by using a credit card when the objective facts show that the cardholder did not or could not intend to repay.

This bill provides that if a debtor incurs debt in connection with the purchase of a credit card of more than $250 for luxury goods or services within 90 days of the petition date, such debt will be presumed to be nondischargeable. This provision recognizes that debtors may use open end credit to purchase goods and services necessary for the support of the debtor shortly before bankruptcy, while identifying presumptively abusive behavior which warrants making the debt nondischargeable such as purchasing a single-end amount of goods that is not necessary for the support of the debtor (i.e., luxury goods and services).

Section 311. Automatic stay

This section provides that the automatic stay under section 362 will not apply in several situations in which residential tenants
file for bankruptcy. First, the automatic stay will not bar the continuation of an eviction action pending when the debtor files for relief. Second, eviction proceedings commenced after the filing are not barred by the automatic stay if the lease has terminated before or after filing of bankruptcy. Third, the automatic stay also will not bar eviction proceedings commenced after filing for relief by or on behalf of a person other than the debtor or the use of illegal drugs, or to any transfer that is not avoidable under sections 544 or 549 of the Code.

Section 312. Extension of period between bankruptcy discharges.

The period of time which must elapse between bankruptcies is increased by this provision. The present 180-day period provided for by the bankruptcy code is increased to 240 days. This provision is intended to clarify what this term means so that creditors receive actual, meaningful, and timely notice of bankruptcy filings. By no later than 7 days before the date first set for the first meeting of creditors, a debtor must provide the trustee, without any prior request, the debtor's tax return and transcript, or the case will be dismissed unless the debtor can show that the failure to file a return is due to circumstances beyond the control of the debtor. Such circumstances would include the debtor did not file a return for the period required, but not that the debtor could not find the return unless the debtor in addition showed that a significant, diligent and timely effort had been made to obtain at least the transcript of the return from the Internal Revenue Service and it was not forthcoming. A transcript is a computer generated line by line statement of debtor supplied information with respect to a tax return which the Internal Revenue Service will provide any tax return filer on request. Once such information is provided the trustee, creditors in chapter 7 and 13 cases can obtain it from the trustee or through the procedure set forth for creditors to obtain copies of the petition and schedules from the court. It is intended that the trustee or the court if deemed necessary to do so, but then only for a specified period of time. Otherwise, the stay automatically expires as to the requesting creditor.

Section 313. Definition of household goods.

This section changes the requirements for providing notice to creditors and also changes the definition of certain categories of goods if the property subject to the security interest is otherwise exempt in the schedules or otherwise as part of a bankruptcy filing.

Notice.—This section is intended to ensure that creditors receive actual, meaningful, and timely notice of bankruptcy filings. In order to ensure proper processing by a creditor of the bankruptcy estate and the tax that was paid would be nondischargeable under section 524(a)(1), the debtor is required to pay the tax also is nondischargeable.

Section 314. Debt incurred to pay nondischargeable debts.

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

Section 315. Notice to creditors.

This section changes the requirements for providing notice to creditors and also changes the requirements as an original plan. Notice of the nature and extent of the debt and an appropriate address as specified by the creditor must be given to the creditor within the 90-day period prior to filing for bankruptcy. However, if any legal requirement impedes the creditor's ability to communicate with the debtor at any point during the 90-day period prior to filing, the creditor's burden will be satisfied if the appropriate information was included in the last two communications with the debtor. For purposes of this section, the creditor's communications with the debtor are those which deal specifically with an individual debt. Communications do include promotional material or other communications that do not pertain specifically to a debtor's debt to the creditor.

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

Furthermore, if a creditor in an individual chapter 7 or 13 case has specified an address for notice by filing a statement to that effect, the court and the debtor are required to use such an address starting five days after receiving the address. A creditor may request the court to use the address generally by the court, in interest and the debtor to provide notice to the creditor in all cases under chapters 7 and 13 if they utilize different notice addresses by more than one of the permitted methods, a creditor may use any one of them, except that a notice address filed in a particular form will not be sent to the creditor if the address was submitted by the debtor.

Notices which are not sent to the appropriate address as specified by the creditor are not effective. Furthermore, a creditor must request the tax return directly, in which case the debtor will provide notice to the court and the court will make arrangements for the debtor to provide notice to the trust or the case will be dismissed unless the debtor in addition showed that a significant, diligent and timely effort had been made to obtain at least the transcript of the return from the Internal Revenue Service and it was not forthcoming. A transcript is a computer generated line by line statement of debtor supplied information with respect to a tax return which the Internal Revenue Service will provide any tax return filer on request. Once such information is provided the trustee, creditors in chapter 7 and 13 cases can obtain it from the trustee or through the procedure set forth for creditors to obtain copies of the petition and schedules from the court. It is intended that the trustee or the court if deemed necessary to do so, but then only for a specified period of time. Otherwise, the stay automatically expires as to the requesting creditor.

Section 316. Dismissal for failure to timely file schedules of information.

The Fed. R. Bankr. Pro. already provide that schedules must be filed within 10 days of filing unless an extension is granted, and many bankruptcy courts have already established a general practice of dismissing cases when debtors fail to provide all required information within 15 days of filing, unless good cause for additional time is shown. Nothing in this provision is intended to interfere with such requirements. However, if an individual debtor after such extensions has failed to file the information required by section 523(a)(1) within 45 days of filing a petition, the case is automatically dismissed. On request of the debtor, the court may grant additional time for the debtor to file schedules. When a chapter 7 proceeding is commenced after filing, the court may grant up to 45 days additional time for the debtor to file schedules. Schedule B of this section replaces the order of dismissal within 5 days of request.

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

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

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

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


It is the sense of Congress that Rule 9001 should be applied to the schedules and other documents filed with the court.

Section 320. Prompt relief from stay in individual cases.

Relief from stay proceedings must be finally decided within 60 days after relief is requested, unless the parties agree to the contrary, or the court for good cause finds it is necessary to do so, but then only for a specific period of time. Otherwise, the stay automatically expires as to the requesting creditor.

Section 321. Chapter 11 cases filed by individuals.

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

First, the property of the estate is expanded to include not only property and earnings acquired between the time of filing and the closing, dismissal or conversion of the case. Such property is placed under the supervision of the court and is protected by the automatic stay. Second, what may be included in a plan is expanded to permit the debtor to subject future earnings and income to the plan. Third, the individual debtor's plan must provide either that it will provide any tax return directly, in which case the debtor must provide notice to the court or the case will be dismissed, subject to limitations already discussed.

Section 322. Limitation.

The state law homestead exemption is limited to the maximum of $75,000 in home equity acquired within the 2 years prior to filing. Amounts acquired within the 2-year period that exceed $200,000, are not exempt from a court-ordered discharge. Fifth, modifications of a plan are subject to the same requirements as an original plan.
are subject to the relevant state law homestead exemption. For this purpose, equity ac-
quired in a principal residence prior to the 2-
year period and rolled over into another pri-
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This new provision is designed to deal with the time and expense of reorganization cases by providing a reorganization plan to replace the traditional Chapter 11 proceedings. A reorganization plan outlines the steps in which the debtor will emerge from bankruptcy by proposing to replace the Chapter 11 process. The plan provides a structure for the debtor to propose a plan of reorganization that is intended to reassure creditors of the debtor's ability to repay their claims. The plan also provides a framework for creditors to evaluate the likelihood of successful reorganization and to determine whether they will support the plan. This provision is intended to simplify the Chapter 11 process and reduce the costs and delays associated with traditional Chapter 11 proceedings. It is designed to make Chapter 11 a more attractive option for debtors who are experiencing financial difficulties and who have a viable business plan for rehabilitation. The provision also provides for certain protections for the debtor, such as the right to an independent examiner to oversee the implementation of the plan and the right to a plan confirmation hearing. These protections are intended to ensure that the interests of creditors and other stakeholders are protected in the reorganization process. Additionally, the provision requires the debtor to file a disclosure statement and confirm the plan in accordance with the Chapter 11 process. This section directs the Advisory Committee on Bankruptcy Rules of the Judicial Conference to propose for adoption amendments to the federal bankruptcy rules to implement the statutory provisions regarding the confirmation of reorganization plans. These changes are intended to streamline the reorganization process and reduce the costs and delays associated with traditional Chapter 11 proceedings. The provision also requires the United States trustee to implement the amendments and provide for the publication of notices of proposed amendments. The provision further directs the Department of Justice to provide to the United States trustee any comments or comments on proposed amendments. This provision is intended to ensure that the process of confirming reorganization plans is efficient and predictable, and that the interests of creditors and other stakeholders are protected in the reorganization process. The provision also provides for certain protections for the debtor, such as the right to an independent examiner to oversee the implementation of the plan and the right to a plan confirmation hearing. These protections are intended to ensure that the interests of creditors and other stakeholders are protected in the reorganization process.
Section 1121 of the Bankruptcy Code is amended to expand the circumstances in which the bankruptcy court may dismiss a chapter 11 case, convert the case to another chapter, or appoint a chapter 11 trustee or examiner. The most salient characteristic of chapter 11 is its most problematic—the debtor or protector against all creditor action and that the estate, remaining in control of all its assets. Any non-debtor seeking comparable injunctive relief must show a likelihood of prevailing on the merits of the dispute and that the equities weigh in favor of equitable relief. Under current law, a chapter 11 debtor gets what is perhaps the a chapter 11 debtor is not moving promptly toward confirmation of a plan and that the estate cannot show that the debtor is not complying with applicable statutes or rules, or that the debtor is not moving promptly toward confirmation of a plan and that the estate cannot show to a significant change in the burden of proof governing motions to dismiss, convert, or appoint a chapter 11 trustee or examiner. First, the amendment creates an expanded definition of "cause" for such relief. In addition, section 1121(e)(3)(C) of the Bankruptcy Code authorizes the United States Trustee to visit the business premises of the debtor and ascertain the status of the books and records and timeliness of filing of tax returns. The amendments to section 556 of the Judicial Code amending United States Code, with respect to small businesses. Requires the Administrator of the Small Business Administration to report to the Senate Committee on Banking, Housing, and Urban Affairs to conduct a study of small business bankruptcies and report to Congress how Federal bankruptcy laws may be made more effective with regard to small businesses. Section 444. Payment of interest

This section provides that a plan shall be confirmed by the bankruptcy court if the plan is confirmed by the court more than 90 days after the order for relief. If the court fails to confirm the plan by that date, the court shall dismiss the case and appoint a trustee. If the debtor fails to make required payments under the plan, the court shall convert the case to a case under chapter 7, or order a discharge to the extent allowed by the plan. If the debtor does not satisfy its burden of proof when such creditors holding claims sufficient to effect a significant change in the burden of proof governing motions to dismiss, convert, or appointment of a trustee or examiner. Relevant to the economic viability of the debtor's business. The likely-to-confirm-a-plan standard should be applied in the same manner when it arises in a motion to extend the deadlines provided for in the amendments to title 11, other creditors may rebut the evidence. The debtor does not satisfy its burden of proof when such creditors holding claims sufficient to effect a significant change in the burden of proof governing motions to dismiss, convert, or appointment of a trustee or examiner. Relevant to the economic viability of the debtor's business. The likely-to-confirm-a-plan standard should be applied in the same manner when it arises in a motion to extend the deadlines provided for in the amendments to title 11, other creditors may rebut the evidence. The debtor does not satisfy its burden of proof when such creditors holding claims sufficient to effect a significant change in the burden of proof
amounts owed with respect to nonresidential real property leases become administrative expenses.

**TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS**

Section 501. Petition and proceedings related to taxes.

This section amends section 921(d) of the Code to clarify that the special rules with respect to commencement of a case of an unincorporated tax or special assessment district in that section control. The general rules on commencement of voluntary cases under section 301 of the Code. As a conforming change, section 501 is amended to divide it into subsections, subsection (a), which provides that a voluntary case is commenced by the filing of a petition, and subsection (b), which provides that the commencement of a case is commenced by the filing of a complaint for relief. Section 501 as amended will continue to govern the voluntary cases which it now covers, except those covered by section 921(d).

Section 502. Applicability of other sections to chapter 9.

Section 901(a) of the Code, which lists the sections of title 11 which apply to chapter 9 cases, is amended to include sections 555, 556, 559, 560, 561, and 562. These sections include an exception to the stay of proceedings to allow the liquidation of various types of securities contracts. The amendment is necessary to reflect greater than average variances from the statistical norm of the district in which the schedules were filed. The aggregate results of the audits performed public and private are included to include the percentage of cases, by district, in which a material misstatement of income, expenditures or assets is reported.

A report of each audit must be filed with the court and transmitted to the United States trustee. Each report must clearly and conspicuously specify any material misstatement of income, expenditures or assets. In any case where a material misstatement of income, expenditures or assets has been made, the clerk of the bankruptcy court must give all creditors in the case notice of the misstatement(s). Where appropriate, the matter could be referred to the United States Attorney for possible criminal prosecution.

Furthermore, the Bankruptcy Code is amended to make it a duty of the debtor to supply certain information to an auditor. This section also adds, as grounds for revocation of a chapter 7 debtor’s discharge, a pattern of behavior that chapter 7 debtors have failed to satisfactorily explain a material misstatement discovered as the result of an audit and the failure to make available all necessary documents or property belonging to the debtor that are requested in connection with such audit.

Section 604. Sense of Congress regarding availability of bankruptcy data.

This section requires the Attorney General to establish procedures for auditing the accuracy and reliability of information supplied by individual debtors in connection with their bankruptcy cases under chapter 7 and chapter 13 of the Bankruptcy Code. The procedures must be generally accepted auditing standards and performed by independent certified public accountants or independent licensed public accountants. The amendments give the Attorney General discretion to develop alternative auditing standards not later than two years after the date of enactment of H.R. 2415. Should the Attorney General develop alternative auditing standards, such standards are expected to have integrity and reliability comparable to generally accepted auditing standards. It is intended that the Attorney General develop auditing standards and any others who set procedures or practices to be used in the audits to supervise them, will in doing so consult with those units in the Department of Justice which enforce against bankruptcy crime, including the bankruptcy fraud task force in the Attorney General’s office and bankruptcy fraud and crime units in the United States Attorneys’ offices.

The audits are to be performed on randomly selected cases and should include at least 1 out of every 250 cases in each Federal judicial district. Audits are required for schedules of income and expenses which reflect greater than average variances from the statistical norm of the district in which the schedules were filed. The aggregate results of the audits performed public and private are included to include the percentage of cases, by district, in which a material misstatement of income, expenditures or assets is reported.

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that governmental unit. The conference agreement also provides that governmental entities may describe where further information concerning additional requirements for filing may be found.

Section 704. Rate of interest on tax claims

The conference agreement follows the Senate bill with a modification and a technical correction. Under current law, there is no uniform standard for payment of tax claims. Bankruptcy courts have used varying standards to determine the applicable rate. The conference agreement adds section 511 to the Bankruptcy Code to simplify the interest rate calculation. The agreement provides that for all tax claims (federal, state, and local), including administrative expense taxes, interest shall be determined in accordance with applicable non-bankruptcy law and as of the calendar month in which the plan is confirmed. The conference agreement modifies the Senate bill to clarify that the applicable non-bankruptcy law interest rate would apply to all administrative expense taxes, as well as to all other tax claims.

Section 705. Priority of tax claims

The conference agreement follows the Senate bill with a modification and a technical correction. Under current law, in section 507(a)(8) of the Bankruptcy Code, tax claims are entitled to a priority if they arise within certain time periods. In the case of income taxes, a priority arises, among other times, if the tax was due within 90 days of the filing of the bankruptcy petition or if the assessment of the tax was made within 240 days of the filing of the petition. The 240-day period is tolled during the time that an offer in compromise is pending (plus 30 days). Though the statute is silent, most courts have held that the 90-day and 240-day time periods are tolled during the pendency of a previous bankruptcy case. The conference agreement codifies the rule tolling priority periods during a previous bankruptcy and adds an additional 90 days. The agreement also includes tolling provisions to adjust for the collection due process rights provided by the IRS Restructuring and Reform Act of 1998. During any period in which the government is prohibited from collecting a tax as a result of a request by the debtor for an installment agreement collection action taken against the debtor, the priority is tolled, plus 90 days. Also, during any time in which there was a stay of proceedings in bankruptcy court or collection of an income tax was precluded by a confirmed bankruptcy plan, the priority is tolled, plus 90 days. The conference agreement modifies the Senate bill to apply the priority tolling periods to non-income taxes as well.

Section 706. Priority property taxes incurred

The conference agreement follows the Senate bill by replacing the word "assessed" with "incurred" in the case of real property taxes. Under current law, many provisions of the Bankruptcy Code are keyed to the word "assessed." However, "incurred" has an accepted meaning in the federal system, it is not used in many state and local statutes and has created some confusion. Replacing the word "assessed" with "incurred" in the case of real property taxes in section 507(a)(8) of the Bankruptcy Code solves this problem.

Section 707. No discharge of fraudulent taxes in chapter 13

The conference agreement follows the Senate bill. Under current law, a debtor's ability to discharge his tax debts varies depending on what chapter of the Bankruptcy Code is involved. Chapter 7 contains a much narrower discharge. Under chapter 7, taxes from a return due within 3 years of the petition date, taxes assessed within 240 days, or taxes related to an unfiled return or false return are not dischargeable. Fraudulent tax claims would not receive any special treatment. The conference agreement also repeals the superdischarge for fraudulent and non-filed taxes by amending section 528(a)(2) of the Bankruptcy Code. Fraudulent tax claims would continue to receive the superdischarge. The conference agreement leaves the superdischarge in place for other tax claims. Thus, consistent with the IRS Restructuring and Reform Act of 1998, taxpayers who have complied with a reorganization plan—which includes paying taxes—would continue to receive the superdischarge.

Section 708. No discharge of fraudulent taxes in chapter 11

The conference agreement follows the Senate bill with a modification. Under current law, the court may reorganize under chapter 11 and discharge the debtor from all liability. The conference agreement would except, in the case of corporations, taxes evaded through the filing of a false tax return or fraudulent manner (applying section 523(a)(2)(B) of the Bankruptcy Code). The agreement would also provide that the court may not discharge a claim for money, property, services, or credit, obtained by a corporation in a false or fraudulent manner (applying section 523(a)(2)(B) of the Bankruptcy Code to corporate debtors). The conference agreement amends the discharge provisions of chapter 11 (Bankruptcy Code section 1141(d)(10)) to prevent the discharge of tax or customs duty tax claims resulting from a corporate debtor's fraudulent tax returns. It also prevents the discharge of any unpaid tax obligations that resulted from a corporate debtor's willful evasion of applicable tax laws. Further, the conference agreement modifies the Senate bill to prevent the discharge of any tax except for money, property, services, or credit, obtained by a corporation in a false or fraudulent manner (applying section 523(a)(2)(B) of the Bankruptcy Code to corporate debtors).

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

The conference agreement modifies the Senate bill to apply the priority tolling periods to non-income taxes as well.

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the trustee's final report, whichever is ear-lier, in order for the claim to be entitled to distribution as an unsecured claim.

Section 714. Income tax returns prepared by tax authorities.

The conference agreement follows the Sen-ate bill. In general, taxpayers cannot be dis-charged from taxes unless a return was filed. Courts have struggled with what constitutes filing a return. The conference agreement makes provisions so that if the Secretary of Treasury to file a return on be-half of a taxpayer if either (1) the taxpayer provides information sufficient to complete a return, or (2) the Secretary can obtain suf-ficient information through testimony or otherwise to complete a return.

The conference agreement modifies section 520(b) of the Bankruptcy Code to provide that a return filed on behalf of a taxpayer who has provided information sufficient to complete a return constitutes filing a return (and the debt can be discharged) but that a return filed on behalf of a taxpayer based on information the Secretary obtains through testimony or otherwise does not constitute filing a return (and the debt cannot be dis-charged).

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

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

The conference agreement modifies section 505(b) of the Bankruptcy Code to clarify that the estate must inform the govern-ment if it requests an audit of the debt-or's tax returns. Therefore, if the govern-ment does not make a determination of the debtor's post-petition tax liabilities or re-quest extension of time to audit, then the es-tate's liability for unpaid taxes will be dis-charged.

Section 716. Requirement to file tax returns to create a chapter 13 plan

The conference agreement follows the Sen-ate bill with a modification. Under current law, a debtor may be entitled to the benefits of chapter 13 (reorganization) even if the debtor is delinquent in his tax returns. Without access to tax return information, creditors cannot obtain full information about the debtor's status and there is no established proce-dures requiring the filing of returns prior to the initial meeting of creditors.

The conference agreement amends section 1306(a) of the Bankruptcy Code (and adds sec-tion 1306 to the Code) to require a debtor to be current on the filing of tax returns for the four years prior to the filing of a petition in order to file for chapter 13. If the debtor has not filed the tax return by the due date, the court can order the debtor to file a return. The return must be filed within 30 days after the due date. If the debtor fails to file a return, the court can discharge the tax liability.

Section 717. Standards for tax disclosure

The conference agreement follows the Sen-ate bill. Under current law, before a chapter 11 (business bankruptcy) plan may be sub-mitted to creditors and stockholders for a vote, the proposer of the plan must file a disclosure statement in which holds of claims and interests are given "adequate in-formation" on which they can make a deci-sion as to whether or not to vote in favor of the plan. A chapter 11 plan's tax con-sequences represent an important aspect of that plan.

The conference agreement amends section 1125(a) of the Bankruptcy Code to require that a bankruptcy court discuss the potential material federal tax con-sequences of the plan to the debtor and to-holders of claims and interests in the case.

Section 718. Setoff of tax refunds

The conference agreement follows the Sen-ate bill. Under current law, a petition for bankruptcy triggers an automatic stay of the setoff of any debt owing to the debtor on tax refunds against post-petition taxes. If the debtor has agreed to file a return, the court would be required to dismiss a bankruptcy petition unless the debtor files a return by the date set by the court. If the court does not dismiss the petition, it will be subject to the provisions of this chapter governing bankruptcy cases in which the estate is not dismissed.

The conference agreement modifies section 362(b) of the Bankruptcy Code to allow the Servant of Treasury to file a return on behalf of a taxpayer based on information the Secretary obtains through testimony or otherwise to complete a return (and the debt cannot be dis-charged).

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

The conference agreement follows the Sen-ate bill, conforming state and local income tax administrative issues to the Internal Revenue Code. For example, under federal law, a bankruptcy petitioning file on March 5 has two tax years—January 1 to March 4, and March 5 to December 31. However, under the Bankruptcy Code, the bankruptcy returns are divided into tax years. In that circum-sance, the court would be required to hold the refund pending resolution of the ac-tion.

Section 720. Dismissal for failure to timely file tax returns

The conference agreement follows the Sen-ate bill. Under existing law, there is no de-finitive rule concerning whether a bank-ruptcy court should dismiss a bankruptcy case if the debtor fails to file a post-petition tax return after entering bankruptcy. The conference be-lieve that it is good policy to require that these returns be filed.

Thus, the conference agreement amends section 521 of the Bankruptcy Code to allow a taxing authority to request that the court dismiss or convert a bankruptcy case if the debtor fails to file a post-petition tax return or obtain an extension on such a return. The conference agreement provides that the court should have 90 days from the time of the request to dismiss or obtain an extension, or the court would be required to dismiss or convert the case.

Section 721. Amendments to title 11, United States Code

The conference agreement amends section 109 to the Bankruptcy Code (the "Code") for transactional bankruptcy cases. This incorporates the Model Law on Cross-Border Insolvency ("Model Law") which was pro-mulgated by the United Nations Commission on International Trade Law ("UNCITRAL") at its Thirty-fifth Session, May 12–30, 1997.

The conference agreement amends section 1123(b) of the Bankruptcy Code to provide that the debtor or debtor couple, or other creditors, is entitled to an automatic extension of time for filing. How-ever, under this chapter, the debtor or debtor couple, or other creditors, is entitled to an automatic extension of time for filing. How-ever, under this chapter, the debtor or debtor couple, or other creditors, is entitled to an automatic extension of time for filing. How-ever, under this chapter, the debtor or debtor couple, or other creditors, is entitled to an automatic extension of time for filing.
section 109(b) exclusions so that foreign pro-
ceedings of foreign insurance companies are eligible for recognition and relief under chapter 15 as they had been under section 305. However, it has been determined that the district courts in a “case” under this title.

Therefore, since the competent court has been designated in title 28, this section instead provides that a petition for recognition commences a “case,” an approach that also

invokes a number of other useful procedural devices.

In addition, a new subsection (P) to section 157 of title 28 makes cases under this chapter eligible for recognition and relief under chapter 15, as the United States courts rely on these sources, which are these sources persuasive, but they are important to the crucial goal of uniformity of interpretation. To the extent that the United States courts rely on these sources, their decisions will more likely be regarded as persuasive elsewhere.

Section 1509. Right of direct access

This section implements the purpose of article 9 of the Model Law, enabling a foreign representative to commence a case under chapter 15 in the district courts in the United States without preliminary formalities that may delay or prevent relief. It varies the statutory language of procedural requirements and it imposes recognition of the foreign proceeding as a condition to further rights and duties of the foreign representative. If recognition is granted, the foreign representative will have full capacity under U.S. law (subsection (b)(1)), may request such relief in a state or federal court other than the bankruptcy court of the United States (subsection (b)(2)), and may be granted comity or cooperation by such non-bankruptcy court (subsection (b)(3) and (c)). Subsections (b)(2) and (c) make it clear that subsection (b)(1) is intended to be the exclusive court for ancillary proceedings. The goal is to concentrate control of these questions in the court. That goal is important in a federal system like that of the United States with many different courts, state and federal, that may have pending actions involving the debtor or the debtor’s property. This section, therefore, completes the United States the work of article 4 of the Model Law (“competent court”) as well as article 11.

Although a petition under current subsection 304 is the proper method for achieving deference by a United States court to a foreign proceeding, subsection 304 requires proof of the existence of a foreign case, which may not exist under current law. State and federal courts under current law have granted comity suspension or dismissal.
of cases involving foreign proceedings without requiring a section 304 petition or even referring to the requirements of that section. Even if the result is correct in a particular case, the undeliberate refusal by the court to consider all the facts in the case, including the interest of the parties, is undesirable. Parties would be free to avoid the requirements of this chapter and the expert scrutiny of the bankruptcy court by applying directly to a state or federal court unfamiliar with the statutory requirements. Such an application could be made after denial of a petition under this chapter. This section concentrates the recognition and deference process in one United States court, ensures against abuse, and empowers a court that will otherwise have the current status of all foreign proceedings involving the debtor.

Subsection (d) has been added to ensure that a foreign representative cannot seek relief in courts in the United States after being denied recognition by the court under this chapter.

Subsection (c) makes activities in the United States by a foreign representative subject to applicable United States law, just as U.S. section 959 does for a domestic trustee in bankruptcy.

Subsection (f) provides a limited exception to the prior recognition requirement so that collection of a claim, which is proper in the foreign proceeding, is allowed in the United States. Section 1509 allows for recognition of a foreign bankruptcy case and any related actions the foreign representative may proceed against abuse, and empowers a court that will otherwise have the current status of all foreign proceedings involving the debtor.

This section mandates nondiscriminatory and "national" treatment for foreign creditors, except as provided in subsection (b) and section 1514. It follows the intent of Model Law article 13, but the language required alteration to fit into the Bankruptcy Code. Under this provision, a foreign claims that fit within a class given priority treatment under section 507 (for example, foreign employees or spouses) is unsettled. This section provides for a court to make specific orders in that regard in proper circumstances. The notice must specify that secured claims must be asserted, if a creditor has made an appropriate request for notice, the court may order the provision of notice to such creditors. In particular, the Rules must provide for additional time for such creditors to file proofs of claim without priority, unless the court has made such requests.

Section 1518. Subsequent information
This section follows article 17 of the Model Law with minor changes. The Rules will require amendment to provide forms for some or all of the documents mentioned in this section to make necessary additions to Rules 1000 and 2002 to facilitate appropriate notices of the hearing to the parties for recognition, and to require filing of lists of creditors and other interested persons who should receive notices. Throughout the Model Law, the question of notice procedure is left to the law of the enacting state.

Section 1519. Presumptions concerning recognition
This section follows article 16 of the Model Law with minor changes. Although sections 1515 and 1516 are designed to make recognition and deference as appropriate as possible, the court may hear proof on any element stated. The ultimate burden as to
requirement of complete and candid reports to the court of all proceedings, worldwide, involving the debtor. This section will ensure that such information is provided to the court. Any failure to comply with this section will be subject to the sanctions available to the court for violations of the statute. The section leaves to the Rules the mechanisms required not only to make repeated questions of notice to parties in interest, the time for filing, and the like.

Section 1519. Relief may be granted upon petitions for recognition of a foreign proceeding

This section generally follows article 19 of the Model Law. The bankruptcy court will have jurisdiction to grant emergency relief under Rule 7065 pending a hearing on the petition for recognition. This section does not expand or reduce the scope of section 105 as determined by cases under section 105 nor does it modify the sweep of sections 555 to 560. Subsection (d) precludes injunctive relief against police and regulatory action under section 1519, leaving section 105 as the only avenue to such relief. Subsection (e) makes clear that this section contemplates injunctive relief and specific rules and a body of jurisprudence. Subsection (f) was added to complement amendments to the Code provisions dealing with financial contracts.

Section 1520. Effects of recognition of a foreign main proceeding

In general, this chapter sets forth all the requirements for recognition that are necessary as to claims that might be extinguished under United States law. The section follows article 21 of the Model Law but is added so that any examiner appointed in a case under chapter 15 is subject to subsections of section 1520. The stay created by article 20 of the Model Law is imported to chapter 15 from existing provisions of the Code. Subsection (a) combines subsections (a) and (b) of article 20 of the Model Law, because section 362 imposes the restrictions required by those two subsections and additional restrictions as well.

Subsections (a)(2) and (4) apply the Code sections that impose the restrictions called for by subsection 1(c) of the Model Law. In both cases, the provisions are broader and more complete than those contemplated by the Model Law. Subsection (c) includes all the restraining powers of the Model Law provisions would impose. As the foreign proceeding may or may not create an “estate” similar to that created in cases under chapter 15, the restrictions are applicable to actions against the debtor under section 362(a) and with respect to the property of the debtor under the remaining sections. The only property covered by this section is property within the territorial jurisdiction of the United States as defined in section 101(4). To achieve effects on property of the debtor which is not within the territorial jurisdiction of the United States, the foreign representative would have to commence a case under another chapter of this title.

By applying sections 361 and 362, subsection (a) makes applicable the United States exceptions and limitation to the restraints imposed on creditors, debtors, and other in a case under this title, as stated in article 20(2) of the Model Law. It also introduces the concept of adequate protection provided in sections 363 and 362. These exceptions and limitations include those in section 362(b)(1), (c), and (d). As one result, the court has the power to terminate the stay pursuant to section 362(d), for cause, including a failure of adequate protection.

Subsection (a)(2), by its reference to section 363 and 552 adds to the powers of a foreign representative of a foreign main proceeding an automatic right to operate the debtor’s business and exercise the power of a trustee under sections 363 and 542, unless the court otherwise orders. A foreign representative desirous of a foreign main proceeding may need to continue a business operation to maintain value and granting that authority automatically may be necessary. If the court is uncomfortable about his authority in a particular situation it can “order otherwise” as part of the order granting recognition.

Two special exceptions to the automatic stay are embodied in subsections (b) and (c). To preserve the foreign representative’s status as to such powers is governed by United States law.

Section 1521. Relief that may be granted upon recognition of a foreign proceeding

This section follows article 21 of the Model Law, with detailed changes to fit United States law.

The exceptions in subsection (a)(7) relate to avoiding powers. The foreign representative’s status as to such powers is governed by United States law. The section authorizes the foreign representative, can flee into a full case. The full case, however, will remain subject to subchapter IV and V on cooperation and coordination of proceedings and to section 105 providing for stay or dismissal.

Section 1522. Protection of creditors and other interested persons

This section follows article 22 of the Model Law with changes for United States usage and reference to the Code sections. It gives the bankruptcy court broad latitude to mold relief to circumstances, including this statute’s responses if it is shown that the foreign proceeding is seriously and unjustifiably injuring United States creditors. For a response to a showing that the conditions necessary for recognition did not actually exist or have ceased to exist, see section 1517. Concerning the change of “adequately” in the Model Law to “sufficiently” in this subsection, see section 1521. Subsection (d) is new and simply makes clear that an examiner appointed in a case under chapter 15 shall be subject to certain duties and bonds of conduct as are imposed on trustees and examiners under other chapters of this title.

Section 1523. Actions to avoid acts detrimental to creditors

This section follows article 23 of the Model Law, with wording to fit within procedure under this chapter. It concerns standing a recognized foreign representative to assert an avoidance action but only in a pending case under another chapter. The section is not clear about whether it would grant standing in a recognized foreign proceeding if not full case were pending. This limitation reflects the conventional point raised by the United Nations debates during the UNCITRAL debates that a single grant of standing to bring avoidance actions is adequate to address many concerns. The courts may decline to follow this section if the relevant law under which the representative is recognized is different.

The courts will determine the nature and extent of any such action and what national law may be applied to such action.

Section 1524. Intervention by a foreign representative

The wording is the same almost exactly that of the Model Law. The right or courts to communicate with other courts in worldwide insolvency cases is of central importance. This section authorizes courts to do so. This right must be exercised, however, with due regard to the rights of the parties. Guidelines for such communications are left to the Rules.

Section 1525. Cooperation and direct communication

This section follows the Model Law almost exactly. The language in Model Law article 26 concerning the trustee’s function was eliminated as unnecessary because always implied under United States law. The section authorizes the trustee, including a debtor in possessions, to cooperate with other proceedings.

Subsection (3) is not taken from the Model Law but is added so that any examiner appointed under this chapter will be designated as the United States Trustee and will be bonded.

Section 1527. Forms of cooperation

This section follows the Model Law exactly. United States bankruptcy courts have already engaged in most of the forms of cooperation mentioned in the Model Law. They now have explicit statutory authorization for acts like the approval of protocols of the sort used in cases.

Section 1528. Commencement of a case under title 11 after recognition of a foreign main proceeding

This section follows the Model Law, with specifics of United States law replacing the general clause at the end to cover assets not otherwise covered by the United States law. The section authorizes the trustee, including a debtor in possessions, to cooperate with other proceedings.
except where assets are subject to the jurisdiction of another recognized proceeding.

In a full bankruptcy case, the United States bankruptcy court generally has jurisdiction over assets outside the United States. Here that jurisdiction is limited where those assets are controlled by another recognized proceeding, if it is a main proceeding.

The court may use section 305 of this title to dismiss, stay, or limit a case as necessary to promote cooperation and coordination in a cross-border case. In addition, although the jurisdictional limitation applies only to United States bankruptcy cases commenced after recognition of a foreign proceeding, the court may use section 305 to exercise its discretion to dismiss, stay, or limit a United States case filed after a petition for recognition of a foreign main proceeding has been filed but before it has been approved, if recognition is ultimately granted.

Section 1529. Coordination of a case under title 11 and a foreign proceeding

This section follows the Model Law almost exactly, but subsection (4) adds a reference to section 305 to make it clear the bankruptcy court may continue to use that section, in addition to section 302, to act ancillary to a foreign main proceeding whenever possible.

Section 1530. Coordination of more than one foreign proceeding

This section follows exactly article 30 of the Model Law.

It ensures that a foreign main proceeding will be given priority in the United States, consistent with the overall approach of the United States favoring assistance to foreign main proceedings.

Section 1531. Presumption of insolvent based on recognition of a foreign main proceeding

This section follows the Model Law exactly, inserting a reference to the standard for an involuntary case under this title.

Where an insolvent proceeding has begin in the home country of the debtor, and in the absence of contrary evidence, the foreign representative should not have to make a new showing that the debtors in the sort of financing activity requiring a collective financial remedy. The word “proof” here means “presumption.” The presumption does not arise for any purpose outside this section.

Section 1532. Rule of payment in concurrent proceedings

This section follows the Model Law exactly and is very similar to prior section 508(a), which is repealed. The Model Law language is somewhat clearer and broader than the equivalent language of prior section 508(a).

Section 802. Other amendments to titles 11 and 28, United States Code

Other sections of title 11 have been amended to apply relevant provisions in those sections to chapter 15 and to specify which portions of chapter 15 apply in cases under other chapters of title 11.

The key definitions of foreign proceeding and foreign representative remain in chapter 15, but rather than replace the prior definitions of those terms in section 101(23) and 101(24), the new definitions are nearly identical to those contained in the Model Law but add to the phrase “under a law relating to insololvency” the words “or debt adjustment.” This additional emphasizes that the scope of the definition found in chapter 15 is not limited to proceedings involving only debtors which are technically insolvent, but broadly includes all proceedings involving debtors in severe financial distress, so long as those proceedings also meet the other criteria of section 101(24).

The amendments to section 157(b)(2) of title 15 will be core proceedings while other amendments to title 15 will provide for a third category of cases under chapter 15 and that the United States trustee’s duties include acting in chapter 15 cases.

Although the United States will continue to assert worldwide jurisdiction over property of a domestic or foreign debtor in a full bankruptcy case under chapters 7 and 13 of title 11, it is treated in cross-border situations different in a case commenced under chapter 15. There the United States is acting solely in an ancillary position, so jurisdiction over property is limited to that stated in chapter 15.

Amendments to section 1019 permit recognition of foreign proceedings involving foreign insurance companies and involving foreign banks which do not have a branch or agency in the United States (as defined in 12 U.S.C. section 3101), but not subject to United States regulation will be eligible for chapter 15 as a consequence of the amendment to section 1019, section 303 provides that the foreign court must determine the voluntariness of a foreign proceeding. While section 304 is repealed and replaced by chapter 15, this provision and the analogous provision which developed under section 304 is preserved in the context of new section 3507. On deciding whether to grant the Additional Assistance, the bankruptcy court must consider the same factors that had been imposed by former section 304.

The venue provisions for cases ancillary to foreign proceedings which have been amended to provide a hierarchy of choices beginning with principal place of business in the United States, if any. If there is no principal place of business in the United States, there is litigation against a debtor, then the district in which the litigation is pending would be the appropriate venue. In any other case, venue must be determined in reference to the interests of justice and the convenience of the parties.

Title IX—Financial Contract Provisions

This title addresses recently prominent forms of securitization which require special treatment in the insolvency context. It amends the Federal Deposit Insurance Act to provide treatment financial contracts, including the cost or expense of disposing of or other disposition of any farm asset used in the business of a domestic or foreign debtor in a full bankruptcy case under chapter 7 and 13 of title 11. It amends the Bankruptcy Code to provide appropriate treatment for the cost or expense of closing a health care business, such as a hospital or nursing home, files for bankruptcy under chapter 11 and that the United States trustee’s duties include acting in chapter 15 cases.

The Trustee is required to follow certain procedures with respect to closing a health care business facilities that have filed for bankruptcy. The Ombudsman will monitor the quality of patient care and report to the court every 60 days regarding the quality of health care facilities that have filed for bankrupt. The ombudsman will monitor the quality of patient care and report to the court every 60 days regarding the quality of that care. The ombudsman determines that patient care is declining significantly or is otherwise materially compromised, the Ombudsman may review confidential patient records, without the prior approval of the court and under restrictions protecting the confidentiality of such records and provide for compensation of an Ombudsman under section 330(a)(1) of title 11.
Section 1105. Debtor in possession; duty of trustee to transfer patients

Section 1105 amends section 104(a) of title 11, stating that the trustee is to use all reasonable and best efforts to transfer patients from a health care facility being closed to another nearby and comparable health care facility, which maintains a reasonable quality of care for patients.

Section 1106. Exclusion from program participation not subject to automatic stay

This section permits the Secretary of Health and Human Services to exclude the debtor from participation in the Medicare program and other Federal healthcare programs without violating the automatic stay.

TITLE XII—TECHNICAL AMENDMENTS

Section 1201. Definitions

This section makes technical corrections to the definitions of the Bankruptcy Code, alters the definitions for “single asset real estate” and “transfer,” and renumbers the definitions.

Sections 1202—1212. Miscellaneous technical corrections

These provisions make technical changes to the Bankruptcy Code provisions on adjustments of dollar amounts, extensions of time, dismissal, bankruptcy petition preparation, and the Bankruptcy Code provisions on adversary proceedings.

Section 1220. Bankruptcy cases and proceedings

This section provides that the Bankruptcy Judgeship Act of 2000 authorizes the President to add or delete districts in which bankruptcy judgeships can be established.

Section 1221. Prepetition trained bankruptcy petition preparers

This provision overrules Levitt v. Ingersoll Rand Financial Corp. (In re V.N. Deprizio Levit v. Ingersoll Rand Financial Corp. (In re V.N. Deprizio Levit v. Ingersoll Rand Financial Corp.)

Section 1222. Bankruptcy judgeships

This section amends section 156(a) of title 28 to provide that the Director of the Federal Judgeship Act of 1992 is extended until October 1, 2002, and that the number of bankruptcy judgeships is increased by the number of additional bankruptcy judgeships that have been authorized under the Bankruptcy Judgeship Act of 1992.

Section 1223. Bankruptcy petition preparers

This section amends section 547(c)(3)(B) of the Bankruptcy Code to provide that the Bankruptcy Code imposes similar restrictions with respect to the insider. It is not avoided for the benefit of an insider, the transfer is avoided only if the transferor had actual knowledge of the non-insider creditor’s insolvency.

Section 1224. Bankruptcy estates

This section amends section 1105. Debtor in possession; duty of trustee to transfer patients to state that the section imposes similar restrictions with respect to the trustee. It is not avoided for the benefit of an insider, the transfer is avoided only if the transferor had actual knowledge of the non-insider creditor’s insolvency.

Section 1225. Bankruptcy judgeships

This section amends section 156(a) of title 28 to provide that the Director of the Federal Judgeship Act of 1992 is extended until October 1, 2002, and that the number of bankruptcy judgeships is increased by the number of additional bankruptcy judgeships that have been authorized under the Bankruptcy Judgeship Act of 1992.

Section 1226. Compensating trustees

This section amends section 326 (Limitation on Compensation of Trustee) with a new subsection (e) providing that, in a case where a trustee in a chapter 7 case makes a motion to dismiss or convert under section 707(b) and such a motion is granted by the U.S. Court of Appeals for the circuit in which such a district is located.

Section 1227. Amendment to section 362 of title 11, U. S. Code

Amends section 362(b)(18) to exempt from the automatic stay a special tax or special assessment on real property (which shall not be ad valorem), imposed by a governmental unit, if such special tax or assessment comes due after the filing of the bankruptcy petition.

Section 1228. Judicial education

Provides that the Director of the Federal Judicial Center, in consultation with the Director of the Executive Office of U.S. Trustees, shall develop model conduct and training materials, such as the use of the courts in implementing this Act, focusing in particular on the section 707(b) means test and reaffirmation.

Section 1229. Reclamation

Subsection (a) of this section amends section 546(c) of title 11 to allow a seller of goods to reclaim those goods under certain circumstances, and enacts procedures and time limits for doing so. This provision was amended in 1994 so as to expand the ability of sellers of goods to reclaim such goods from a trustee by extending the reclamation demand period from 10 days to 20 days.

The amendment made by this Act extends this period to 45 days, subject to certain limitations and requirements. Under existing law and this amendment, the rights and powers of the trustee under sections 542(a), 545, 547 and 549 are subject to the right of recovery of the goods that remain in the possession of the debtor in the ordinary course of the seller’s business.

Specifically, under the new subsection 546(c)(3), the seller’s right to reclaim goods which an insolvent debtor received not later than 45 days after the commencement of the bankruptcy judge’s discretion to avoid such a transfer for the benefit of an insider, the transfer is avoided only if the transferor had actual knowledge of the non-insider creditor’s insolvency.

The amendment made by this Act extends this period to 45 days, subject to certain limitations and requirements. Under existing law and this amendment, the rights and powers of the trustee under sections 542(a), 545, 547 and 549 are subject to the right of recovery of the goods that remain in the possession of the debtor in the ordinary course of the seller’s business.
case is not subject to certain of the trustee's avoiding powers. However, the seller may not reclaim the goods unless the seller makes a reclamation demand in writing: (A) not later than 45 days 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. Subsection 540(c)(2) states that a failure to provide notice in a manner required under paragraph (1), defeats the seller from making a claim under section 503(b)(8).

As amended, subsection 546(c) contains certain exceptions to the seller's reclamation rights. For example, rights do not apply to claims with respect to grain or fish covered in subsection 546(d). Second, another exception is a priority claim to a prepetition lien on a personal property unit under subsection 507(c) with respect to an erroneous refund or tax credit.

Finally, reclamation claims are also made subject to the prior rights of holders of security interests in such goods or the proceeds of the sale of such goods.

Subsection (b) of this section, amends section 503(b) of title 11 to add a new paragraph (8) which provides for an administrative expense allowance for the value of goods received not later than 20 days after the date of filing, if the goods were sold to the debtor in the ordinary course of the debtor's business.

Section 1230. Providing requested tax documents to the court

Section 315 of HR 2415 amends section 521 of the Bankruptcy Code to insert a new subsection which requires the debtor to provide certain tax documents. In addition, under Rule 2004 discovery, a debtor can be required to disclose tax returns and other tax information in-appropriate cases. If a debtor fails to do so, this provision provides sanctions.

Subsection (a) withholds a discharge in a chapter 7 case where the debtor has failed to provide all final judgments, decisions, orders, and decrees filed with the district court under subsection 503(b), to obtain judicial review when they are terminated or cease to be assigned cases. Judicial review shall be available under section 127(b)(2)(C) of the Code for the district court for which the plan under subsection 508(a)(1) serves, or the district where a tax return is filed under section 706(a).

The debtor must first exhaust all administrative remedies which, if the trustee elects, shall include a hearing on the record. The final agency decision will be upheld unless it is found unreasonable and without cause based upon the administrative record before the agency. This section also amends 28 U.S.C. 586(d) to be applied under subsection 506(b) to seek judicial review of a final agency decision to deny a reclamation claim.

Subsection (b) of section 1237 of this Act, merely makes conforming changes substituting "section 1586(e)" for "section 1586(d)" in three sections of the Code.

Section 1236. Exemptions

This section corrects a cross reference.

Section 1237. Consumer Credit Disclosure

Section 1402. Enhanced disclosures under an extended credit plan

This would amend section 127(b) of the Truth in Lending Act ("TILA") to require new minimum payment disclosures on monthly billing statements sent to cardholders. Under this section, the front page of each monthly billing statement must include a new minimum payment disclosure. The new disclosure would be dependent upon the level of minimum payments required under the applicable credit plan and whether the creditor is subject to enforcement by the Federal Trade Commission ("FTC"). It is intended that the Federal Reserve Board ("FRB") will implement the new disclosures in a manner that will enable creditors to preprint the disclosures on the billing statements they send to cardholders. Disclosures by federally regulated financial institutions.

These institutions are required to enforce regulations by a federal agency other than the FTC must provide a minimum security payment warning that will vary depending upon whether the institution's credit plan requires a minimum payment that is 4% or less, or more than 4%, of the outstanding balance. If the institution's credit plan requires minimum payments that are 4% or less of the outstanding balance, the institution will include the following on the front of the monthly billing statement: "Minimum Payment Warning: Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance. For an estimate of the interest you pay and the time it takes to repay your balance, call this toll-free number: __________." If the financial institution requires a minimum payment of more than 4% of the outstanding balance, the institution would make the same minimum payment disclosure, but without any illustrative example. Specifically, in such cases, the institution would indicate that "[m]aking a typical 5% minimum monthly payment on a balance of $1,000 would require $300 at an interest rate of 17% would take 24 months to repay the balance in full." How- ever, such an institution may elect to use...
the example applicable to plans requiring minimum payments of 4% or less if it chooses to do so.

Federal regulated financial institutions also would be required to include in the disclosure a toll-free telephone number that the institution’s open-end credit account holders may use to obtain information furnished by the FRB estimating how long it could take to repay a similar outstanding balance. The toll-free telephone number may be provided by the institution jointly with other creditors, or by a third party. The toll-free number may connect account holders to an automated device that enables them to obtain information through use of a touch-tone telephone or similar device, so long as the number is available to all account holders without a touch-tone telephone or similar device. The institution may provide an opportunity for persons to speak to an individual. The FRB is charged with developing charts or tables showing how long it could take to repay various balances, assuming the limited number of repayment assumptions specified in the bill. It is intended that the FRB, in preparing the charts or tables, will use the same methodology as that used in calculating the 8-month and 24-month repayment periods set forth in the disclosures in new paragraphs (11)(A), (B) and (C) of TILA section 127(b). The FRB chart or table will be updated regularly to reflect changes in the number of months that it will take to repay the account holder’s outstanding balance. In each semiannual report to Congress in sub-paragraph (J), the creditor would simply include the following statement on each billing statement as provided in new subparagraph (K) (as included in section 1234 of this Act):

“Making only the minimum payment will increase the interest you pay and the time it takes to repay. For more information, call this toll-free number:”

The toll-free number may be operated individually by the institution, jointly with other creditors or by a third party. It is intended that the toll-free number may connect account holders to an automated device that enables them to obtain information through the use of a touch-tone telephone or similar device, so long as account holders without a touch-tone telephone or similar device are provided an opportunity for persons to speak to an individual.

FRB study. In addition, the FRB has the authority to conduct a study to determine whether it would be advisable to require a toll-free telephone number. In any such study, the FRB will be required to examine the means by which financial institutions and other open-end credit borrowers must in- form accountholders to an automated device or, in the event that the toll-free number is not maintained by the creditor (or third party) no longer maintains the toll-free telephone number. The toll-free number may be operated individually by the institution, jointly with other creditors or by a third party. The toll-free telephone number may be operated individually by the institution, jointly with other creditors or by a third party. Instead, such depository institutions are required to furnish a toll-free number. Depository institutions with total assets not exceeding $250 million and applicable under section 127(b)(11) of TILA and any regulations promulgated by the FRB to implement section 127(b)(11) will not take effect until the later of: (A) 12 months after the date of enactment of this Act; or (B) 12 months after the publication of final regulations by the FRB.

Section 1403. Disclosure related to credit extension secured by a dwelling

This section adds a new disclosure that must be made by creditors who make either open-end or closed-end loans to consumers if those loans are secured by the consumer’s principal dwelling. This section provides that, in connection with credit applications and credit advertisements for such loans, the creditor must disclose to the consumer that if the loan exceeds the fair market value of the dwelling, the interest on the portion of the credit that exceeds the fair market value must not take into account federal income tax purposes and that the consumer may want to consult a tax advisor for further information regarding the deductibility of interest and other charges. The regulations issued by the FRB to implement this section will not take effect until the later of: (A) 12 months after the date of enactment of this Act; or (B) 12 months after publication of the final regulations by the FRB.

Section 1404. Disclosure related to “introductory rates”

This section mandates new disclosures regarding introductory rates on open-end credit card accounts if those rates will be in effect for less than 1 year (“temporary rates”). This section provides that an application or solicitation for a new credit card account, which is described in section 127(c)(1) of TILA must comply with the following requirements if the account offers a temporary rate:

1. Each time the temporary rate appears in the written materials, the term “introductory” must appear clearly and conspicuously in immediate proximity to the rate itself.
2. If the rate that will apply after the temporary rate expires will be a fixed rate, the creditor must disclose the time period in which the introductory period will expire and the annual percentage rate that will apply after the end of the introductory period.
3. A creditor must disclose the time period in which (or time period in which) a late payment fee may be charged and the amount of such fee.

This section and any regulations promulgated by the FRB to implement this section will not take effect until the later of: (A) 12 months after the date of enactment of this Act; or (B) 12 months after the publication of final regulations by the FRB.
Section 1406. Prohibition on certain actions for failure to incur finance charges

This section prohibits a creditor under an open-end consumer credit plan from terminating an account of a consumer prior to its expiration date (i.e., expiration of the card in the case of a credit card account) solely because the consumer has not incurred finance charges. The section makes it clear, however, that the creditor may terminate the account if it is inactive for three or more consecutive months. The section applies to accounts opened on or after the date of enactment.

Section 1407. Dual use debit card

This section permits the FRB to conduct a study of existing consumer protections, including voluntary industry rules, that limit the liability for consumers when a consumer's ATM card or debit card is used to access the consumer's asset account without the consumer's authorization.

Section 1408. Study of bankruptcy impact of credit extended to dependent students

This section directs the FRB to conduct a study of the impact that the extension of credit to certain students has on the rate of bankruptcy. Specifically, the study must examine the bankruptcy impact of extending credit to students who are dependent on their parents or others for federal tax purposes and who are enrolled within 1 year of successfully completing all required secondary education requirements on a full-time basis in post-secondary educational institutions. The results of the study must be reported to Congress within 1 year after the date of enactment of the Act.

Section 1409. Clarification of clear and conspicuous language

This section directs the Board, in consultation with other federal banking agencies, the National Credit Union Administration and the FTC, to promulgate regulations, including examples of model disclosures, to provide guidance regarding the meaning of "clear and conspicuous" as used in sections 127(b)(11)(A), (B) and (C) and 127(c)(6)(A)(ii) and (iii) of TILA as added by this Act.

TITLE XV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

Section 1501. Effective date; application of amendments

The amendments made by the Act take effect 180 days after the date of enactment, except as provided elsewhere in the Act. These amendments apply only with respect to cases commenced after the effective date.

Mr. DODD. Thank you. We are in agreement on what this legislation does.

Mr. HATCH. Thank you. I rise today to speak about the Bankruptcy Reform Conference Report that is being considered by the Senate. Let me start by noting that there is strong opposition to this bill—in its current form—by consumer advocacy groups such as the National Women's Law Center, the Association for children for Enforcement of Support, and the Consumer Federation of America.

This conference report is an illustration of what happens when a sound idea is submitted to an unsound process. The idea of reforming the Bankruptcy Code to stop obvious abuses was an idea that had broad support. It was a bipartisan issue. Regrettably, however, this modest and sensible idea—the idea that we should close the loopholes that a small number of people were using to game the system—has been warped into legislation that goes far beyond its original purpose.

The process that created this conference report was highly partisan and highly unusual. Its provisions were drafted by one party meeting in secret, without the knowledge of other members of the Democratic Party. Indeed, no formal conference was ever held. Instead, at the last minute the majority found a stalled Department of State authorization bill that was being managed by Senators who were sympathetic to their version of the bankruptcy bill and they performed a legislative bait and switch. They deleted every word from the Department of State bill and then inserted every word of their bankruptcy bill.

Now the Senate is being asked to vote on a so-called Department of State authorization bill that contains not a word about the Department of State. This is something else but nothing but an empty vessel into which a so-called "compromise" bankruptcy bill has been poured. But we have to be careful here—the word "compromise" doesn't mean what it used to mean, what it normally means in the legislative process. This isn't a compromise between the two Houses of Congress. This isn't a compromise between the two parties. This compromise bill is more than a mixture of like-minded men and women of the same political party. This is a majority-only bill. There has been no meaningful compromise at all.

Aside from the procedural problems with how this bill has been handled, I have deep and serious concerns about the substance of this legislation.

This legislation will unintentionally injure honest hard-working Americans who have fallen through no fault of their own. The reason that we have a Bankruptcy Code is because life sometimes deals people a bad hand and we believe that it's important to give people a fresh start—an opportunity to overcome the financial misfortunes that have struck them. This principle is so fundamental that the Constitution expressly lists the establishment of uniform bankruptcy laws as a congressional responsibility. It seems to me that the Framers understood that some people find an orderly way to allow people to pay off their debts to the degree possible, and then get back on their feet as productive citizens. Regrettably, that principle seems to suffer at the hands of this conference report.

Evidence suggests that the vast majority of people who file for bankruptcy do so because some financial crisis beyond their control has plunged them into debt that they cannot avoid. People file for bankruptcy because they've lost their jobs or because a child needs medical care that is not covered by insurance.

The evidence shows that abusive filings are the exception, not the rule. The median income of the average American family filing for a chapter 7 bankruptcy is just above $20,000 per year, according to the General Accounting Office. The majority of people who file for bankruptcy are single women who are heads of households, elderly people trying to cope with medical costs, again people who have lost their jobs, or families whose finances have been complicated by divorce.

For the most part, we are talking about working people or elderly people on fixed incomes, who through no fault of their own have fallen on hard times and need the protection of bankruptcy to help put their lives back together. It is also worth noting that last year, the per capita personal bankruptcy rate dropped by more than 9 percent, and again this year the bankruptcy rate has dropped.

The impact that this legislation would have on single-parent households is particularly disturbing to me. Single parents have one of the hardest jobs in America. Most work all day, cook meals, keep house, help their children with homework, and schedule doctors' appointments, parent-teacher meetings, and extracurricular activities. Life isn't easy for working single parents and often the financial assistance they receive in the form of alimony or child support is critical to keeping their families from falling into poverty. I believe that the conference report before the Senate would frustrate the efforts of single-parent families to collect support payments.

I understand that the proponents of this bill believe that they have treated single-parent families fairly. But what I am worried about is the unintended—perfectly foreseeable—consequences of allowing more debts to survive bankruptcy.

For 150 years, the Bankruptcy Code has given women and children an absolute preference over all others who have claims on a debtor's estate. Under the well-established rule, if a divorced person files for bankruptcy, the court doesn't require that person's ex-spouse or child to compete with creditors for the funds needed to pay child support and alimony. Instead, alimony and child support are taken out of the debtor's monthly income first and if there is anything left over, that is made available to commercial creditors. If there is nothing left over, then the commercial or consumer debts are discharged and the debtor's only remaining obligation is to the ex-spouse and children.

This conference report would change the rules. For the first time, it would make credit card and other consumer debts essentially nondischargeable. So, while a divorced spouse would still be obliged to pay alimony and child support, his or her other unsecured debts would remain intact.

Proponents of this bill say this does no harm to divorced spouses and their
children because ex-spouses are still at the front of the collections line. But there is a huge practical difference between being first in line and being the only one in line. Under current law, nonsupport debts are often discharged and debtors are able to avoid paying their obligations to their children and ex-spouses. If this conference report becomes law, that will change—debtors will not be able to focus on their children, they will—as a matter of law—have to divert limited financial resources to pay back consumer creditors.

I believe that this change will inevitably lead to conflicts between commercial creditors and single parents who are owed support and alimony payments. Sure, they will be first in line, but single parents will be competing with large creditors. Creditors, I might add, are well-represented by teams of lawyers for the money they need to feed and clothe and educate their children.

I understand the perspective that says that all debts should be paid—but when debtors simply cannot pay all of their debts, then I believe that our laws should protect the interests of children and families first. Under this legislation, a child support payment could very well be reduced in order to satisfy an unsecured commercial creditor. In my view, that change would place the well-being of a child at a disadvantage and elevate the status of the unsecured creditor.

Low-income children and families will be put at a practical disadvantage by this bill and will ultimately suffer greater economic deprivation because they cannot afford to compete with sophisticated creditors.

Mr. President, Congress should reform the Bankruptcy Code, but we need to do so in a responsible and effective and fair way. In my opinion, this conference report—even though it was well-intentioned—has not answered this call.

Mr. BIDEN. Mr. President, today, we reach a point that has been far too long in coming: a vote on final passage of bankruptcy reform. Just two days ago, the Senate voted overwhelmingly—67 to 31—to end debate on this legislation. I expect the same strong endorsement in today's vote.

For those of us who are all aware of, it has been a prolonged and complicated process that has brought us to this point today. In one of our very first votes this year, the Senate passed bankruptcy reform legislation by the overwhelming margin of 83 to 14. Similar legislation passed the House last year, 313 to 108. I personally believe that we should not have waited for legislation that passed both Houses by overwhelming margins, many months ago, to finally reach the floor of the Senate in the last hours of this session.

For vast, bipartisan majorities of both houses, the idea that we need to restore some balance to our bankruptcy code is not controversial. The legislation before us today does indeed tighten current law. It assures that those who have the ability to pay—but only those with the ability to pay—will be forced to come forward with at least a partial repayment plan. This fundamental change will affect probably fewer than 10 percent of the people who file for bankruptcy, and only those who have the demonstrated ability to pay. A couple of our constituents would be surprised to find that is not the case today. Today's code makes no clear distinction between those who have the income to pay some of their debts and those whose only recourse is to sell off whatever assets they have to pay their creditors. The bill before us corrects that basic flaw.

I am convinced that flaw has a lot to do with the fact that bankruptcy filings have reached record levels in recent years, in spite of the strongest economy we have ever enjoyed. And—contrary to some of the assertions we have heard recently, those filings are not going down. After a leveling off, following interest rate reductions and a wholesale lowering of your made credit easier, the latest statistics show a revival in the record wave of bankruptcy filings in recent months. The problem has not gone away—and the growing evidence of a slowing economy means we should expect even more filings in the coming months.

The fact is, Mr. President, that we have before us legislation that is the result of weeks of debate and amendment here on the Senate floor last year. Although we could not convene a formal conference, further bipartisan discussions continued this summer, including the direct participation of the White House. I ask my colleagues to consider how closely the legislation being debated today resembles the letter and the spirit of the bill that had such overwhelming support earlier this year.

I also strongly urge the President to reconsider his threat to veto this legislation, which contains many provisions that are the product of direct negotiations with his White House. I know that important voices in his administration continue to support bankruptcy reform, and I hope that he will heed their advice.

We still have a strong safe harbor, to protect families below the median income, along with adjustments for additional expenses that will assure that only those with real ability to pay will be steered from Chapter Seven to Chapter 13. Senate language, that gives judges the discretion to determine whether there are special circumstances that justify those expenses, prevailed over stricter House language.

Beyond that, the Senate-passed safe harbor provision has actually been strengthened, with additional protection for those between 100 and 150 percent of the national median income, who are largely exempted from the means test.

Compared to current law, this legislation provides increased protections against creditors who try to abuse the reaffirmation process. This bill also imposes new requirements on credit card companies to explain to their customers the implications of minimum payments on their bills every month.

The centerpiece of this legislation that I think deserves much more emphasis is its historic improvement in the treatment of family support payments—child support and alimony. Compared to current law, there are numerous specific new protections for those who depend on those payments. The improvements are so important that they have the endorsement of the National Child Support Enforcement Association, the National Conference of Attorneys General, and the National Association of Attorneys General.

These are the people who are actually in the businesses of making sure that family support payments are made. One passage from a letter sent to members of the Senate Judiciary Committee deserves repeating here, Mr. President. Referring to the very real advantages which this legislation would provide to the women and children who depend on those support payments, they say that, and I quote, "defeat of this legislation based on vague and unarticulated fears" would be "throwing out the baby with the bathwater."

I think this last line from the letter deserves special stress: "No one who has a genuine interest in the collection of support should permit such inexplicit and speculative fears to supplant the many substantial victories for Senate opponents of this legislation. I honor the President, and by brief address two issues that have been raised by the President, and by opponents of this legislation. I honestly believe that compared to the many substantial victories for Senate positions, those two issues fall far short of justifying a change in the overwhelming support bankruptcy reform has received in the last two sessions of Congress.

First, there is the issue of the homestead cap. One of the most egregious examples of abuse under current law is bankruptcy.

I think this last line from the letter deserves increased protections which this reform legislation provides to those in need of support."
few of the millions of bankruptcies that have been filed in recent years. Nevertheless, it is an abuse that should be eliminated. Senator KOHL and Senator SESSIONS have been the leaders in the Senate on this. They are the reason why we need a strong, new provision—a "hard cap" of $100,000 on the value of a home that could be exempt from creditors in bankruptcy.

That provision is not in the bill before us today, Mr. President, but the worst abuse—the last-minute move to shelter assets from creditors—would still be eliminated. To be eligible for any state's homestead exemption, a bankruptcy filer must have lived in that state for the last two years before filing. If you buy a home within two years of filing, your exemption is capped at $100,000. That is a huge improvement over current law.

So I say to my colleagues: if you want to eliminate the worse abuse of the homestead exemption, then you will have to vote for the conference report before us today.

That brings us to the last of the major issues—one that we have come to call the Schumer Amendment, because of the energy and dedication of my friend and colleague from New York.

We all know of the confrontations—sometimes peaceful, sometimes tragically violent—that have occurred in recent years between pro-life and pro-choice groups over access to family planning clinics. Because of the threat to the Constitutional rights of the people who run those clinics and their patrons, Congress passed, and President Clinton signed, the Free Access to Clinics Entrances Act in 1993. That law makes it a crime—punishable by fines as well as imprisonment—to block access to family planning clinics.

Some of those who have been arrested and prosecuted under that law have been able to use the bankruptcy courts to escape the consequences of their crimes—specifically, to avoid paying damages. Some of these individuals have in fact filed for bankruptcy.

But in no case—in no case that I am aware of, Mr. President, or that the Congressional Research Service has been able to find—has any individual escaped a single dollar's liability by filing for bankruptcy. Not a dollar, not a dime, not a single penny. The law hasn't been weakened, and it won't happen. The reason is simple: current bankruptcy already states that such settlements—for "willful and malicious" conduct—are not dischargeable in bankruptcy.

If that were not enough, current case law supports a very strong reading of that provision of current law. When one clinic demonstrator—who violated a restraining order—attempted to have the settlement against her wiped out in bankruptcy, her claim was rejected out of hand. 

The creation of a restraining order setting physical limits around a clinic has been ruled to be "willful and malicious" under the current code. The penalties she was assessed were not dischargeable.

Mr. President, the Congressional Research Service, as of October 26, conducted an exhaustive, authoritative search, and it quote: "did not reveal any reported decisions where such liability was discharged under the U.S. Bankruptcy Code."

So the current bankruptcy statute—and the most recent case law on this point—all say that the Schumer Amendment is intended to take nothing away from the hard work and dedication of my friend and colleague on the Judiciary Committee, or to minimize the frustration and outrage many Americans feel at the announced attempts to abuse the bankruptcy code. It is simply to say that the women who use and who operate family planning clinics are not without recourse, and not without the full protection of the law, under the current bankruptcy code.

I repeat, Mr. President: no one has escaped liability under the Fair Access to Clinics Entrances Act through an abuse of the bankruptcy code. No one.

So, Mr. President, we will vote today on a conference report that has a strong cap, but that contains important victories for Senate positions, victories that make the bill in some ways fairer and more balanced than the version that passed here in January by an overwhelming vote.

While the homestead provision is not what I hoped it would be, I will vote for closing the worst aspects of the homestead loophole in the current code. I will not let the best be the enemy of the good.

And I will vote for this conference report confident that family planning clinics, and the women who need and use them, will continue to enjoy the full protection available under current law.

I urge my colleagues to join me.

Mrs. FEINSTEIN. Mr. President, I support bankruptcy reform, and I voted in favor of the Senate bankruptcy bill, this past February. Simply put, people who can afford to repay their debts, should repay their debts.

However, I cannot support the version of bankruptcy legislation outlined in the Conference Report to H.R. 2415. The Conference Report has dropped key provisions from the Senate bill. The Conference Report failed to protect consumers against irresponsible creditor practices. Thus, I intend to vote "No".

Let me recount my concerns.

First, the Conference Report lets wealthy individuals continue to purchase multimillion dollar homes that are shielded from creditors' bankruptcy claims. The Senate bill curbed this abuse, voting 76-22 to approve the Kohl amendment placing a $100,000 nationwide cap on homestead exemptions. The Conference Report replaced the Kohl amendment with a two-year ownership or residency requirement that wealthy debtors can easily sidestep.

Debtors should not be able to avoid their obligations by funneling money into extravagant estates. The Conference Report lets this egregious practice continue.

Second, I am proud to be an original cosponsor of Senator Schumer's amendment to prevent anti-abortion extremists from using bankruptcy laws to avoid paying civil judgments against them. The Senate passed the Schumer amendment by an overwhelming 87-17 vote. The amendment puts a woman's right to choose and the ongoing effectiveness of the Freedom of Access to Clinic Entrances, F.A.C.E. Act. The FACE Act has led to successful criminal and civil judgments against groups that use intimidation and outright violence to prevent people from obtaining or providing reproductive health services. I am deeply disappointed that the Conference Report has omitted this important provision.

Third, I had hoped that the Conference Report would work to improve the limited consumer credit card protections in the Senate bill. Unfortunately, the Conference Report has gone in the other way—consumer protections have been deleted. For example, the Conference Report dropped a provision appointed that the Conference Report would have required any credit card solicitation on the Internet to be accompanied by information from the Federal Trade Commission, FTC, that gives consumers advice about selecting and using credit cards. The Conference Report dropped this provision.

Additionally, the Conference Report deleted an amendment by Senator LEVIN that would have made it clear that consumers do not owe interest for on-time credit card payments. Presently, many credit card solicitations advise consumers that interest is not charged on payments made within a grace period (such as 25 days). However, the final agreement states that if the entire debt is not paid back, the cardholder is liable for interest on the full amount charged. Say $995 is paid off of a $1,000 credit debt, most people reasonably assume that they owe interest on just the unpaid $5. Not so. The credit card company will charge consumers interest retroactively on the full $1,000. This important amendment would have brought interest charges in line with consumer expectations.

When analyzing legislation, it is often telling to review the opinions of those groups with no financial stake in the outcome. Overwhelmingly, the non-partisan experts on bankruptcy—the judges, trustees, and academics—have expressed serious concerns or opposition to this bankruptcy bill. These organizations include the National Bankruptcy Conference, NBC, the National Conference of Bankruptcy Judges, NBC, the National Conference of Bankruptcy Judges, NCBJ, the National Association of Bankruptcy Trustees, NABT, and law professors from many of our nation's law schools.
On October 30, 2000, for example, 91 law professors wrote to me that the “bill is deeply flawed,” and will not achieve balanced reform. The professors state that “…the problems with the bankruptcy bill have not been resolved, particularly provisions that adversely affect women and children.”

Congress should also take note that, after soaring to record levels in the mid-1990s, bankruptcy filings declined in recent years. In 1998, bankruptcy filings totaled 3,442,546. In 1999, bankruptcy filings totaled 1,319,540 cases, a decline of almost 10 percent from the previous year.

A final note, Mr. President. When the 107th Congress convenes, the Senate will be evenly divided for the first time in over a century. If we are to govern, to conduct the nation's business, we have to be able to work across party lines. The Bankruptcy Conference Report that we are considering this afternoon is a case study of how not to govern. There was no conference; this report emerged as the product of negotiations held exclusively between House and Senate Republicans. Maybe if they had consulted with the minority, they could have written a bill that the majority could support. But they didn't. They deliberately excluded us. The result is a Conference Report the President has vowed to veto.

Bankruptcy reform requires a balance fair to both debtors and creditors. This bill doesn't measure up. I intend to vote no on passage of the Conference Report to H.R. 2415. I hope that Congress will revisit bankruptcy reform in the 107th Congress, and work in a bipartisan way to address known abuses in our bankruptcy laws.

Mr. KERRY. Mr. President, I strongly believe that reform of our bankruptcy laws is necessary. During the 106th Congress, I signed legislation to reform bankruptcy laws and end the abuse of the system. However, I am unable to support the conference report of the Bankruptcy Reform Bill because I believe it is unfair and unbalanced, was completed without appropriate consideration by the Minority party, and is unfair to many working families and single mothers. Sponsors of bankruptcy reform have justified the legislation by arguing that the bill is necessary because we are in the midst of a “bankruptcy crisis.” I am among those who believe that, too often, bankruptcy is used as an economic tool to avoid responsibility for unsound decisions and reckless spending. There has been a decline in the stigma of filing for bankruptcy, and appropriate changes are necessary to ensure that bankruptcy is no longer considered a lifestyle choice. However, I must point out that the current numbers show that the bankruptcy rate is lower than it was when the bill was first introduced. Indeed, if the bankruptcy reform act had been enacted into law, the sponsors would undoubtedly be taking credit for this turn-around in the bankruptcy numbers. However, the current decline came about without Congressional intervention, demonstrating that to some degree, free-market forces work to correct any over-use of the bankruptcy system by wealthy debtors and credit card companies, in an effort to maximize their profits, and can and do respond to an unexpected increase in personal bankruptcies by curtailing new lending to consumers who are credit risks. However, when the benefactor who will game the system, and we should narrowly craft legislation to address such abuse. Unfortunately, this bill fails to take a balanced approach to bankruptcy reform. I had hoped that through a legitimate legislative process we would arrive at a compromise that would have ended the abuses but still provided our most vulnerable citizens with adequate protections. This bill does just the opposite: It harms those who need bankruptcy protection and protects those who don’t. For instance, the bill’s safe harbor will not benefit individuals in most need of help. Because the safe harbor is based on the combined income of the debtor and the debtor’s spouse, many mothers who are separated from their husbands and who are not receiving child support will not be able to take advantage of the safe harbor provision. In other words, a single mother who is supported by a well-off spouse is further harmed by this bill, which will deem the full income of that spouse available to pay debts for the safe harbor determination. Moreover, the bill jeopardizes the post-bankruptcy collection of child support. By creating many new types of nondischargeable debts in favor of credit card companies, the bill would place banks in direct competition with single parents trying to collect child support. The bill gives creditors new levers to coerce reaffirmations, in which debtors must agree to pay back debts that otherwise would have been discharged, so that those debts also will compete with child support obligations. Finally, the bill fails in any way to impose any restrictions on these industries with regard to the way they provide credit to those who can least afford to incur a great deal of debt. The bill does not require important disclosures on monthly credit card statements that would show the time it will take to pay a balance and the cost of the credit if only minimum payments are made. This type of disclosure was included in the legislation passed by the Senate in 1998 and should be part of any reform bill. The conference report also excludes Senate-passed amendments that would have provided credit information in electronic credit card applications over the Internet and protections against fees being imposed on credit card payments made within the creditor-provided grace period. It also does nothing to discourage lenders from further increasing the debt of consumers who are already overburdened with debt.

I am also very disappointed that the conference report does not include an amendment offered by Senator COLLINS and myself, which was included in the Senate bill, that would make Chapter 12 of the Bankruptcy Code, which now applies to family farmers, applicable for fishermen. I believe that this provision would have made bankruptcy a more effective tool to help fishermen reorganize effectively and allow them to keep fishing while they do so.

Finally, this bill is the result of a conference process that was a sham. In October, the House appointed conferees for the Bankruptcy Reform Act and without holding a conference meeting, the Majority filed a conference report striking international security legislation and ratifying it with a reference to a bankruptcy reform bill introduced earlier that same day. This makes a mockery of the legislative process and demeans the United States Senate. I
am hopeful that during the 107th Congress, we can develop bipartisan legislation that would encourage responsibility and reduce abuses of the bankruptcy system.

Mrs. MURRAY. Mr. President, I come to the floor today to express my disappointment with the Bankruptcy Conference Report. I reluctantly will be voting no on the final conference agreement because it fails the fairness test and because it fails to protect the most vulnerable families facing dire financial times.

I have supported bankruptcy reform in the past. I continue to support fair and balanced reforms to prohibit the misuse of the bankruptcy code and to prohibit individuals from using the code as a shield against honoring their financial commitments. We need reform because we all pay for the abuses. Working families struggling with the cost of credit deserve reform. Families trying to save to purchase their first home can be forced to sell their home due to abuse of our bankruptcy laws.

Unfortunately, the final product presented to the Senate is unacceptable. In an attempt to prevent a fair and open debate, the conference report bypassed the normal legislative process, and Senators have been denied the opportunity to improve the legislation. Clearly this conference report has been driven by special interests and not the interests of working families. It does not ensure that mothers and children who depend on child support and alimony payments won’t lose out to big special interests. It does not require any responsible actions by credit card companies in educating or informing consumers to the cost of debt.

This conference report is vastly different from the bill that passed the Senate in March. I supported that bill. The conference report before us, however, will make it impossible for families to seek bankruptcy protection when they are hit with overwhelming financial problems often caused by events beyond their control. In many cases, families are forced into bankruptcy due to unexpected medical bills caused by a disabling accident or condition. Many women are forced into bankruptcy due to the break up of their family and their inability to collect court ordered child support. These families are forced into bankruptcy simply because credit card companies made reckless decisions in issuing credit to individuals unable to manage debt or unable to manage the costs of managing debt.

This conference report also eliminates the Schumer Clinic Violence Amendment that I cosponsored and that I believe must be part of any reform bill. We cannot allow those who use violence or the threat of violence to shield themselves from financial responsibility by running to a bankruptcy court. Without the Schumer amendment, the Bankruptcy Code will continue to be subject to exploitation by perpetrators of violence against women. Protecting access to reproductive health clinics and providers is not an abortion issue, but a women’s health and safety issue.

Violent anti-choice groups provide legal assistance to violent protesters on how to use the Code to protect their assets against possible financial liability. Their criminal debts are simply excused under the current code. This conference report fails to close that loophole. The Schumer amendment was adopted on an 80 to 17 vote, but the final conference agreement simply dropped this bipartisan anti-violence amendment.

We know that this conference report will be vetoed and has little or no chance of becoming law. The decision to push this through in a partisan manner has jeopardized bankruptcy reform. As a result, working families will suffer. I am hopeful that with the new Congress and the need to work in a bipartisan fashion on bankruptcy reform in the next Congress, I will continue to work for reform that is balanced, fair and that protects women against violence and intimidation. I want reform, but not at the expense of working families.

Mr. President, I hope all of my colleagues will honor the mandate we all received in the election. The American people did not give one party or one philosophy a mandate to govern. They want a bipartisan Congress that will put aside political bickering and special interest and work to solve the problems facing real people and real families.

Mr. LEVIN. Mr. President, earlier in the year, when the Bankruptcy Reform bill was before the Senate, I voted in favor of the bill. I said at the time that “over the course of debate, the Senate adopted more than 40 amendments, making this a more reasonable approach to bankruptcy reform.” However, I also said that “should this legislation come back from conference...” without the modest amendments we adopted in the Senate, I will consider opposing the bill at that time.

The bill before us is one I cannot support. The negotiators who worked out the differences between the Senate and House passed versions of the bill, deleted or weakened many of the provisions that were key components of the Senate adopted bankruptcy reform bill. Both of the amendments that I sponsored were deleted from the final version of the bill. One of those amendments simply required a study to determine if credit card companies use residency or zip codes to determine creditworthiness. The other amendment I sponsored would have prohibited credit card companies from applying interest charges on the paid portion of a balance during a so-called grace period.

Another provision that was deleted was Senator SCHUMER’s amendment, which passed by an enormous margin in the Senate. The Schumer Amendment would have ensured that perpetrators of clinic violence, who incurred debt as a result of unlawful acts, could not discharge that debt in bankruptcy proceedings.

I am also concerned that the Senate-passed bill and the House bill force by closing the homestead loophole was weakened in conference. The homestead loophole permits debtors in certain states to shield luxurious homes, while shedding thousands of dollars of non-exempt bankruptcy. The Senate passed an amendment to create a $100,000 nationwide cap on the homestead exemption, thus closing the loophole. The conference report still allows for such abuse of the system so long as the expensive home was purchased two years in advance of the bankruptcy filing. This provision allows sophisticated debtors with the resources to plan ahead for bankruptcy to game the system.

Furthermore, I am disappointed with the unusual legislative process the majority used to file this conference report. The bill before us today, H.R. 2415, was originally introduced as the American Embassy Security Act. Last August, when the Senate passed this legislation and conference with the House, it dealt with State Department and international security matters. More than a year later, the House appointed conference, stripped the international security provisions from the Senate-passed bill and replaced them with a version of a bankruptcy reform bill. That is the wrong way to legislate.

Mr. President, I believe that bankruptcy reform could have been resolved in a fair and bipartisan way. Unfortunately, it was not handled in this way and so I cannot lend my support to the bill.

Mr. ROBB. Mr. President, throughout my career I have been a staunch advocate for fiscal responsibility, believing that as a government we should make every effort to pay our own way and not leave our debts to our children. That same principle of fiscal responsibility compelled me to be an early cosponsor of the bankruptcy reform bill. I believe that, whenever possible, individuals should take personal responsibility for debts that they incur and pay what they owe.

Under our current bankruptcy system, debtors can be absolved of their debts, they should have an obligation to do so. The conference report we're considering today adheses to that basic principle.

While I have supported bankruptcy reform throughout this Congress, however, I'm extremely disappointed with how we got to this point in the process. There has been much discussion about the need for bipartisanship recently, but there is little evidence of bipartisan spirit in the process used to develop this conference report. In fact, that process
represents the exact opposite of bipartisanship. The minority was locked out of the deliberations completely.

In addition, I'm concerned that important provisions that I supported and which passed overwhelmingly in the Senate were dropped in conference, specifically the amendment involving violence against abortion clinics and the amendment involving the homestead exemption. I continue to support those provisions, but they were not in the bill that was ultimately sponsored. And while I had hoped that those provisions would be included in the final package, the absence of those provisions doesn't diminish the basic proposition contained in the underlying bill which caused me to lend my support to the measure in the first place.

Let me conclude by acknowledging the help and friendship of many of those who have called me or my office over the last few days urging me to change my position on this legislation. Many times I've heard from constituents who oppose this bill are among those with whom I most often find common cause and have supported me strongly over the years. It is particularly painful for me not to be able to oblige them in this case. I have made a decision in May of last year to cosponsor this legislation, and there have been no major substantive changes between then and now that would compel me to change my position. So while I regret having to say “no” to so many of my friends, I cannot in good conscience turn my back on a principle which is so fundamental to me—the principle of personal responsibility. As a result, I will maintain the position I have held since this bill was introduced and will vote for final passage.

Mr. HATCH. Mr. President, let me begin by saying that H.R. 2415 is one of the most important legislative efforts to reform the bankruptcy laws in decades. I would like to express my thanks to the people who have worked on this legislation. First, I want to acknowledge the Majority Leader, who has worked diligently to keep this legislation on its course. Thanks to his commitment to moving this legislation, we are in a position to eliminate the abuses in the current bankruptcy system, while at the same time, enhance consumer protections.

I also want to acknowledge the Ranking Member of the Senate Judiciary Committee, Senator LEAHY, who has worked with me to reach agreement on many of the bill's provisions. In addition, I want to commend my colleagues Senators GRASSLEY and TORRICELLI, the Chairman and ranking minority member of the Subcommittee on Administrative Oversight and the Courts, respectively, for their hard work in crafting this much needed legislation, and for their diligence in ensuring that the development and passage of this bill a bipartisan process. My thanks also go to Senator SESSIONS and Senator BIDEN, who have shown unwavering dedication to accomplishing the important reforms in this bill; and the many other members of the Senate for their hard work and cooperation.

The compelling need for this reform is highlighted by the large number of bankruptcy filings we have seen over the past several years, which are particularly troubling because they have occurred during a time of relative prosperity for our Nation. Mr. President, the bankruptcy system was intended to provide a "fresh start" for those who truly need it. During the process of developing this legislation, I have remained committed to preserving a bankruptcy system that will allow those individuals to emerge from severe financial hardship. At the same time, I believe that individuals should take personal responsibility for their debts and repay them if they are able to do so. I believe the complete elimination of debt should be reserved for those who truly cannot repay their debts, not for those who simply choose not to repay.

This bipartisan legislation, authored by Senators GRASSLEY and TORRICELLI, has carefully balanced the rights and responsibilities of both debtors and creditors. If enacted, it will enable those truly in need of a fresh start to get one, and at the same time, reform current laws to make sure that the system from being abused at the expense of honest, hard-working Americans. Mr. President, again I would like to applaud the bipartisan efforts of my colleagues who have made this a broadly-supported bill that removes some of the abuses of the current bankruptcy system while enhancing consumer protections.

I am particularly proud of the great strides this legislation makes in improving current law. The legislation includes provisions that prevent deadbeat parents from using bankruptcy to avoid paying child support. It includes my provision to protect educational savings accounts that parents and grandparents set up for their children and grandchildren. And, it includes my provision that ensures that the retirement savings of teachers and church workers are given the same protection in bankruptcy as everyone else. It includes my provision that prevents violent criminals and drug traffickers from using bankruptcy at the expense of their victims. Specifically, when these criminals voluntarily file for bankruptcy, my provision protects victims by allowing them to move for dismissal of the bankruptcy case. The legislation also includes my provision that is designed to curb fraud in bankruptcy filings by putting in place new procedures and providing new resources to enhance enforcement of bankruptcy fraud laws. My provision requires (1) that bankruptcy courts designate one Assistant U.S. Attorney and one FBI agent in each judicial district as having primary responsibility for investigating and prosecuting fraud in bankruptcy.

I would like to take a moment to acknowledge a few people who have worked very hard on this legislation. On my staff, I particularly would like to thank the Committee's Chief Counsel and Staff Director, Manus Cooney, the counsel who worked diligently on this measure, Makan Delrahim, Rene Augustine and Kyle Sampson, and staff assistant Katie Stahl. On Senator LEAHY's Committee staff, I want to recognize Minority Chief Counsel Bruce Cohen, along with counsel Ed Pagano. On the Administrative Oversight and the Courts Subcommittee, I would like to thank John McMickle and Kolan Davis, counselors to Senator GRASSLEY, and Jennifer Leach, counsel to Senator TORRICELLI, for their tireless efforts and input. My thanks also goes to Ed Haden and Sean Costello, counselors to Senator SESSIONS. I also would like to express my gratitude to Senator Legislative Counsel, and in particular, the Minority Staff Director, Laura Ayoud of that office, whose hard work made this bill a better product. Without the dedication and efforts of these loyal public servants, the important reforms in this legislation would not have been possible. Thank you.

UNANIMOUS CONSENT AGREEMENT—H.J. Res. 127

Mr. GRASSLEY. Mr. President, I have been asked to propose this unanimous consent request which, I have been told, has been approved on both sides.

I ask unanimous consent that immediately following the vote on the passage of the bankruptcy legislation, the Senate proceed to the consideration of H.J. Res. 127, the continuing resolution. I further ask unanimous consent that the resolution be read a third time and that the Senate then proceed to a vote on passage of the resolution, with no intervening action or debate. The PRESIDING OFFICER. Without objection, it is so ordered.

BANKRUPTCY REFORM ACT OF 2000—CONFERENCE REPORT—Continued

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Minnesota has 2 minutes remaining.

Mr. WELLSTONE. Mr. President, responding to my friend from Iowa, the President has called Senators and for good reason: This is a piece of legislation that has very little balance.

I will give the example again of LTV workers in the iron range of Minnesota which is going to shut down in February. One month later, there could be
an illness in a family, a medical bill, the worker no longer has a job and cannot pay the mortgage.

Under this piece of legislation, what would be the income that is calculated? Would it be the income of this family with the house and the job of the unemployed? No. Under this bill, in order to see whether this family could file under chapter 7, you would look over the past 6 months and average out the income all the months he or she was working. But they do not have a job. Meanwhile, the people file for chapter 7 because of a major medical bill. It is 50 percent. Only about 3 percent game this system.

Now we have a piece of legislation that does not ask the credit card companies to be accountable, does not do anything about their egregious practices, targets the most vulnerable people, and has very little balance. This piece of legislation should be defeated. That is why the President is opposed to it. That is why, why civil rights, women, children, consumer organizations, all oppose this piece of legislation. I say to my colleagues, it is too harsh. It is without balance. I know there is a powerful economic constituency behind it, but I hope you will vote against it.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I rise to congratulate all the Senators who have been working on this issue and, in particular, the chairman who is standing here, Senator GRASSLEY, and has been here many times.

Today, in an extended session, we will finally reform the bankruptcy laws of America. They are very important because credit in America, be it from banks, from individual lenders, wherever, is really the heartbeat of what makes us tick and permits us to give our citizens material means. Without credit, things do not work in America.

Every now and then, we have to fix the bankruptcy laws so they work in behalf of not only the debtors but the creditors of America. That is what we are doing here. I think it will pass overwhelmingly.

My thanks to those who have worked so hard on it. I cannot claim to be one of them.

Again, Senator Chuck GRASSLEY has great persistence, and this is a tribute to him and a good start to his chairmanship of the Finance Committee.

I yield the floor.

Mr. GRASSLEY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The hour of 3:45 p.m. having arrived, the question is on agreeing to the conference report to accompany H.R. 2415. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FITZGERALD (when his name was called). Present.

Mr. REID. I announce that the Senator from Louisiana (Ms. LANDRIEU) is necessarily absent.

The PRESIDING OFFICER (Mr. CRAPO). Are there any other Senators in the Chamber desiring to vote?

The resolution was announced—yeas 70, nays 28, as follows:

[Rollcall Vote No. 297 Leg.]

YEAS—70

Abraham Dorgan McCain
Allard Enzi McConnell
Ashcroft Frist Miller
Bayh Gorton Murkowski
Bennett Graham Nickles
Biden Graham Robb
Bingaman Grams Roberts
Bono Grassley Roth
Breaux Greer Santorum
Brownback Hagel Sessions
Bryan Hatch Shelby
Bunning Helms Smith (N)
Burns Hollings Smith (D)
Byrd Hutchinson Snowe
Campbell Huttoon Specter
Chafee, L. Inhofe Stevens
Cleland Jeffords Thomas
Coehran Johnson Thompson
Collins Kerrey Thurmond
Conrad Kyl Torricelli
Craig Lincoln Voinovich
Crapo Lott Warner
DeWine Leather
Domenici Mack

NAYS—28

Akaka Inouye Murray
Baucus Kennedy Reed
Boxer Kyl Reid
Daschle Kohl Rockefeler
Dodd Lautenberg Sarbanes
Durbin Leahy Schumer
Edwards Levin wellstone
Feingold Lieberman Wyden
Feinstein Moynihan
Harkin Moynihan

ANSWERED "PRESENT"—1

Fitzgerald

NOT VOTING—1

Landrieu

The conference report was agreed to.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRASSLEY. Mr. President, I want to thank all of the people who helped get this bill passed.

Senator HATCH, Senator SESSIONS, Senator TORRICELLI, and Senator BIDEN have all been very helpful. I thank them publicly for their hard work. I even want to thank Senator LEAHY. I also want to thank the staff who have been helpful: Makan Delrahim and Renee Augenstein of Senator HATCH's staff; Ed Haden and Brad Harris of Senator SESSIONS's staff; J ennifer Leach of Senator TORRICELLI's staff; Jim Greene of Senator BIDEN's staff; K olan Davis and John McMickle of my staff. I also want to thank John Pagans and Bruce Cohen of Senator LEAHY's staff.

I want to emphasize the great amount of work and expertise toward this successful effort of my Counsel, John McMickle. Without his hard work the bill would not have been the good product and compromise it is.

Mr. LEAHY. I congratulate Senator GRASSLEY, the Chairman of the Administration Oversight Subcommittee and my good friend Senator HATCH, the Chairman of the Judiciary Committee for their work on this measure. They doggedly pursued this passage here today. They showed leadership and we made some progress.

— ORDER OF BUSINESS

Mr. LOTT. Mr. President, I know that Senators are interested in the schedule.

First, just very briefly, I want to recognize the achievement that has just taken place. A lot of hard work went into this bill over a long period of time by, of course, Senator GRASSLEY, Senator HATCH, Senator LEAHY, and Senator TORRICELLI. But it also took cooperation from Senator WELLS STONE. Whether he is for it or against it, I think again it showed that when we try we can get a final result which gets some 70 votes.

I commend all of them.

This upcoming vote on the continuing resolution should be the last vote of the week. It will be necessary to pass an additional continuing resolution on Friday. However, we are not aware of any request on the other side of the aisle for a rolcall vote.

Tomorrow's continuing resolution should carry us over until Monday or Tuesday, and we will make further announcements to update Members as to the schedule for next week.

During this time, we will be putting the finishing touches on the appropriations bills and a final determination on the Medicare adjustments.

We are working in a bipartisan way and in a bicameral way with the administration.

We hope to be able to finish the business for the year and for this Congress before the end of next week. It will take a lot more work, but we are making some progress in that direction.

MAKING FURTHER CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 2001

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of H.J. Res. 127, which the clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 127) making further continuing appropriations for the fiscal year 2001, and for other purposes.

Mr. LOTT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on passage of the joint resolution.

The clerk will call the roll.

The assistant legislative clerk called the roll.
Mr. NICKLES. I announce that the Senator from Arizona (Mr. KYL) and the Senator from Pennsylvania (Mr. SPECTER) are necessarily absent.

Mr. REID. I announce that the Senator from Louisiana (Ms. LANDRIEU) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 96, nays 1, as follows:

[Rollcall Vote No. 298 Leg.]

YEAS—96

Abraham

Akaka

Allard

Ashcroft

Baucus

Bayh

Bennett

Biden

Bingaman

Bond

Boxer

Breaux

Brownback

Bryan

Burns

Byrd

Campbell

Chafee, L.

Cleland

Cooper

Collins

Conrad

Craig

Crapo

Daschle

DeWine

Dodd

Domenici

Dorgan

Durbin

Edwardsof

NAYS—1

Leahy

NOT VOTING—3

Kyl

Landrieu

Specter

The joint resolution (H.J. Res. 127) was passed.

Mr. SESSIONS. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table. The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Michigan.

PRIVILEGE OF THE FLOOR

Mr. ABRAHAM. Mr. President, I seek unanimous consent to have the member of my staff be allowed the privilege of the floor for the brief period of time that I make some remarks here related to my tenure in the Senate.

The staff members are: Adam Condo, David Carney, Meagan Vargas, Tom Glegola, Vance Poole, Bob Carey, Katja Bullock, Carrie Cabelka, Alex Hagel, Tyler White, Rachael Bohlander, Kevin Kolvar, Joe McMaine, Katie Packer, Cesare Conda, Justin Davis, Margaret Murphy, Jessica Moore, Sue Wadel, Majida Dandy, Lilian Smith, Julie Teer, Jim Pitts, Michael Ivanenko, Chase Hutto, Stuart Anderson, Lee Lieberman Otis, and Randa Fahmy Hudome.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

SERVICE IN THE SENATE

Mr. ABRAHAM. Mr. President, it is rare in this Chamber for incumbent Senators who have lost on election day to still have the privilege of addressing the Senate again, and it is in their capacity of finishing out their terms. For me, if there is a silver lining behind this extended session of which we are a part, it is because it gives me a chance to thank people—friends, supporters, staff, colleagues, and others—who have made it possible for me, a grandson of immigrants, to serve and succeed here.

I begin today by making some comments and thanking people who have made a difference.

First, I thank my Senate colleagues with whom I have worked over the last 6 years. I especially express my gratitude for the majority leaders under whom I have served—Senator Bob Dole and Senator TREVOR LOTT—for their confidence in me, for making me part of their circle of key advisers, for their support on both legislative and political matters and, most importantly, for their friendship.

I extend the same heartfelt thanks to the other members of our leadership teams over the last 6 years: To Senator DON NICKLES for whom I served as deputy whip for 4 years; to our conference committee chairman, THAD COCHRAN, who served when I first arrived here, and Senator CONNIE MACK; to our Senate campaign committee chairman, MITCH MCCONNELL, and the late Senator PAUL COVERDELL; to the Chairman of the Republican Policy Committee Senator LARRY CRAPO; to our campaign coordinator SENATE STAFF DEWINE; to Senator KAY BAILEY HUTCHISON, and so many others who have provided me with guidance and leadership during the time I have been here.

I also take special note of the people with whom I have served as a member of their committees: To our Commerce Committee chairman, JOHN MCCAIN, who has been a great friend and supporter and through whose help I have been able to pass significant legislation that came from our Commerce Committee agenda.

I thank our Judiciary Committee chairman, ORRIN HATCH, who helped me get on his committee my very first year here and whose support on that committee helped me to achieve a number of personal objectives with respect to legislative goals and who worked closely with me and his staff worked closely with my staff as we fought a number of very important battles in the Senate.

I thank my good friend Senator PETE DOMENICI, who chairs the Budget Com-
people who are part of that success. It would be impossible to name all of them. I want to single out, though, four people who played particularly important roles:

Former Michigan Senator Bob Griffin whose campaigns and staffs I worked on many years ago and a role model for me in that he was the last Republican Senator from my State and a man whose integrity and leadership in the Senate were well recognized. He served ultimately on the Republican side. His guidance and friendship from the time I was in college has meant a great deal to my political success and my personal success as well.

To our great Governor John Engler, who has been a political friend and colleague in Michigan politics since 1971. Without his support and help, I would not have been successful in my campaign for the Senate or other roles I played in my political life.

To former Congressman Guy Vander Jagt with whom I served as cochairman of the National Republican Congressional Committee in 1991 and 1992 when I made my first appearance on the legislative side of Washington working on Capitol Hill for the first time.

And especially to a great friend, former Vice President Dan Quayle on whose staff I served as deputy chief of staff in 1990 and 1991, my first assignment in Washington in Government service at the Federal level.

I thank all of those individuals, and the others I have not had a chance today to name, for having helped me get to this role and being effective in it.

There are today on the floor a great number of people who have worked on my Senate staff. I am proud of them and proud to have them with me. They only reflect a percentage of the many folks who served in the State of Michigan and their country in the context of working on my staff. There are so many others that I have tried to name, to honor the ones I have listed, but I will submit the names of everybody for the Record.

The people who served on my senior staff: Tony Antone, Cesar Conda, Kate Hinton, Randa Fahmy Hudome, Joe McMonigle, Katie Packer, Jim Pitts, Larry Purpuro, Laurie Bink Purpuro, and Sue Wadel.

To those folks who served over the years on my press and communications staff: Joe Davis, Nina Delorenzo, Steve Hesseler, Betty Ayres, Jullie Teer, Jessica Morris, and Dan Sener.

To a terrific legislative staff, and people who have worked on my sub-committees: Stuart Anderson, Rachel Bohlander, Bob Carey, Ann Coulter, Charlotte Cottrell, Kevin Kolevar, Kathleen Kettledge, Kevin Kolevar, Brandi Laperriere, Brian Reardon, Greg Willhauck; and Tyler White.

To my administrative staff: Katja Bullock, Majida Dandy, Paul Erhardt, Jim Helt, Matt Suhr, and Lillian Smith.

To the many people who have worked with us who are on our Michigan staff:

In particular, I would note Greg Andrews, Joe Celia, Larry Dickerson, Sharon Eineman, Tom Frazier, Phil Hedges, Eunice Myers Jeffries, Stuart Larkins, Renee Meyers, John Petz, Elroy Sailor, Lillian Simon, and Billie Wimp. And there are many others who have served and whose names I ask unanimous consent to have printed in the RECORD.

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

STAFF OF SENATOR SPENCER ABRAHAM (MICHIGAN)

Mohammed Aboubhar, Staff Assistant; Stuart Anderson, Director of Immigration Policy and Research; Gregory Andrews, Regional Director; Anthony Antone, Deputy Chief of Staff; Sandra Baxter, Assistant to the Chief of Staff; Beverly Betel, Staff Assistant; Rachel Bohlander, Legislative Assistant; David Borough, Computer Specialist; Michael Brown, Staff Assistant; Katja Bullock, Office Manager; Carrie Cabelka, Staff Assistant; Cheryl Campbell, Regional Director; Rob Fettke, Legislative Director; David Carney, Mail Room Manager; Joseph Cela, Regional Director; Cesar V. Conda, Assistant to the Chief of Staff; Adam Condo, Systems Administrator; Jon Cool, Staff Assistant; Ann H. Coultier, Judicial Counsel; Majida Dandy, Executive Assistant.

Anthony Daunt, Staff Assistant; Joe Davis, Director of Communications; Nina De Lorenzo, Press Secretary; Larry D. Dickerson, Chief of Staff/Michigan Operations; Joanne Dickow, Legal Advisor; Hope Durant, Executive Assistant to the Chief of Staff; Sharon Eineman, Senior Caseworker; Paul Erhardt, Special Assistant; Tom Frazier, Regional Director; Bruce Frohnen, Speech Writer; Renee Gauthier, Caseworker; Jessica Gavora, Special Assistant; David Glancy, Staff Assistant; Thomas Glegola, Special Assistant; Todd Gustafson, Regional Director; Alex Hageli, Staff Assistant; Mary Harden, Staff Assistant; Phil Hendges, Regional Director; Katja Kolevar, Staff Assistant; Joanna Herman, Special Assistant.

Melissa Hess, Staff Assistant; Stephen Hesseler, Deputy Press Secretary; Kate Hinton, Deputy Press Secretary; Tony C. Hodson, Special Assistant; Kevin Holmes, Special Assistant; Kelly Hoskin, Caseworker; Michael J. Hudome, Special Assistant; Randa Fahmy Hudome, Counselor; F. Chase Hutto, Judicial Counsel; Michael Ivahnenko, Special Assistant; Erinje Jefries, Regional Director; Kaveri Kalia, Press Assistant; Raymond M. Kaveri, General Counsel; Elizabeth Kessler, General Counsel; Kevin Kolevar, Senior Legislative Assistant; Jack Koller, Systems Administrator; Peter Kulick, Case Worker; Kristin Kauffman, Special Assistant; Patricia L. LaBelle, Regional Director; Brandon L. LaPierre, Legislative Assistant.

Stuart Larkins, Staff Assistant; Matthew Latimer, Special Joseph P. McMonigle, Administrative Assistant/General Counsel; Eileen McNulty, West Michigan Director; Meg Mein, Special Assistant; Jordan Meissner, Office Manager, enquirer Millerwise, Staff Assistant; Denise Mills, Staff Assistant; Maureen Mitchell, Staff Assistant; Sara Molieski, Regional Director; Jessica Morris, Legislative Secretary; Margaret Murphy, Press Secretary; Tom Nank, Southeast Michigan Director; James Patrick Neill, Director of Scheduling; Shawn Poole, Office Manager; Nicole Regan, Regional Director; Na-Rae Ohm, Special Assistant; Lee Liberman Otis, Chief Judicial Counsel; Kathryn Packer, Director of External Affairs; Chris Pavelich, Regional Director; John Petz, Southeast Michigan Director; James Pitts, Chief of Staff/Michigan Operations; Staff Assistant; John Potbury, Regional Director; Toshia Pruden, Caseworker; Laurine Bink Purpuro, Deputy Chief of Staff; John Petz, Southeast Michigan Director; Elroy Sailor, Special Assistant; David Seitz, Mail Room Manager; Don Senor, Director of Communications; Mary Shiner, Regional Director; Anthony Shumsky, Regional Director; Alicia Sikkenga, Special Assistant; Lillian Simon, Staff Assistant; Lillian Smith, Director of Scheduling; Anthony Spearman-Leach, Regional Director; Anthony Shumsky, Regional Director; Matthew Suhr, Special Assistant; Julie Teer, Press Secretary; Amanda Trivax, Staff Assistant.

Meagan Vargas, Special Assistant; Shawn Vasil, Staff Assistant; Olivia Joyce Vesperas, Staff Assistant; Sue Wadel, Legal Advisor; Seth Waxman, Caseworker; Jennifer Wells, Caseworker; La Tanya Wesley, Special Assistant; Tyler White, Special Assistant; helped us to chart the very complicated parliamentary waters we have to so often navigate, the folks who work on the staffs of the committees on which I have served that have helped us to pass legislation, and to the people who work in the Senate, from the Capitol Police, who help us in so many ways that go unnoticed, to the folks in the libraries and the Congressional Research Service, and in the Cloakrooms.

To all of those people, and others I have probably forgotten, I say thank you because it has really been a very enjoyable part of this job to work with such nice people, who give 100 percent to this Chamber and to America and often without any recognition at all. I hope that we will continue to always be served in this body by people of such great skill and talent.

Finally, I thank the people of Michigan and everyone who gave me the chance to come to Washington to represent them in the Senate.

I thank you for what I consider to be the most tremendous honor that any American can have—being able to serve them by their friends and neighbors in their State, and for their tremendous support throughout my 6 years in the Senate.
I am very proud of the accomplishments I have achieved. I have worked very hard—I hope in most cases in an effective way—to help the people of Michigan, to make sure my constituents have had their voices heard in the Senate, and to make certain that the Federal Government is responsive to their needs.

Speaking of accomplishments, although I spent only a relevantly brief time here in the Senate, I am very proud of what my staff and I have been able to accomplish for the people of Michigan and for the country.

In 1994, a group of freshmen were elected here. Eleven of us came in to basically create a new majority. In 1995, I came to the Senate as part of a historic class of Republican Senators—the class that gave Republicans control of Congress for the first time in decades. I believe we were sent to Washington to accomplish a very clear agenda: to balance the Federal budget, to reform the welfare system, and to make Washington more accountable.

I am proud to say, as I look back on our 6 years, that I believe we have delivered on those promises.

We balanced the budget in 1996—and we have kept it balanced every year since. We have done it this past year without using one penny of the Social Security trust fund surplus to get the job done.

We reformed the welfare system, reducing the welfare rolls by over a third.

We provided parents with a $500-per-child tax credit and investors a cut in the capital gains tax.

And we made Congress more accountable by requiring Members to live by the same rules and regulations and mandates we impose on the rest of the country.

I am proud of those achievements, which, I think, of course, are achievements of this body as a whole.

I am also proud of some of the things which I have been able to accomplish during the last 6 years. I am very proud of the fact that, including today, I have never missed a single rollcall vote on the floor of the Senate. I have just cast, I think, my 2,002nd consecutive rollcall vote.

In my view, voting in the Senate is the single most important duty that we, as Senators, perform on behalf of our constituents. It is what the people of our States elect us to do. I am glad I have been here every single day for the people of Michigan to perform that responsibility.

I am also proud of the fact that in a fairly short period of time I have been able to author 22 pieces of legislation that have been signed into law. I am proud of that legislative record.

As a member of the Judiciary Committee, I took a special interest in drug and crime issues. My first bill to become law prevented the U.S. Sentencing Commission from reducing prison sentences for crack-cocaine offenders. Had that bill not passed, the sentences would have been automatically reduced.

Later, with my staff, we wrote the Prison Conditions Litigation Reform Act, which helped reduce prisoner lawsuits and reduced our prisons from sending back to local authorities.

And just a few months ago, the President signed into law the Samantha Reid Date-Rape Drug Prohibition Act. Samantha Reid was a Rockwood, MI, teenager who died after drinking a can of Mountain Dew she did not know had been laced with the deadly date rape drug GHB. Our law amends the Controlled Substances Act by adding GHB to the list of Schedule 1 controlled substances, which also includes heroin and cocaine.

As a member of both the Judiciary and Commerce Committees, I focused on a wide range of high-technology issues that I believe are critical to the continued growth and prosperity of this country.

My American Competitiveness and Workforce Improvement Act increased the number of skilled professional visas to help with critical labor shortages, especially in the entrepreneurial high-technology sector.

The law also funds 10,000 new college scholarships annually for low-income students for studies in math, engineering, and computer science, and job training for unemployed Americans through the Jobs Partnership Act.

I was also the author of two new laws dealing with electronic commerce: the Government Paperwork Elimination Act and the Electronic Signatures and Global and National Commerce Act.

The first law set forth a timetable for Federal agencies to accept electronically signed and transmitted records and forms from businesses and individuals. The second law ensured that contracts agreed to over the Internet using national legal signatures would have the same legal validity as contracts agreed to in the paper world using pen and ink signatures.

Both of these laws have laid the groundwork, I think, for continued growth and expansion of electronic commerce in the years to come.

Other laws which I have been involved with—I am especially proud of the passage, this year, of the Neotropical Migratory Bird Conserva-
tion Act, the College Scholarship Fraud Prevention Act; and in the previous year, the Child Passenger Protection Act.

I am especially proud of having been the Senate sponsor of legislation that confirmed the Congressional Gold Medal on one of my constituents, Mrs. Rosa Parks.

One area that I spent a great deal of time working on in this Chamber, as many know, is the area of immigration. As a grandson of immigrants, I believe, with all of my heart, that immigration to this country.

I believe, with all of my heart, that America should remain—as President Reagan said—the “Shining City on the Hill,” welcoming those who play by the rules and who contribute to society.

I would say, despite the ugly campaign that was run in my State against me by some of these anti-immigrant hate groups, I am absolutely confident that the bipartisan coalition for legal recognition that we built in this Chamber will remain strong long after I have left the Senate.

I am also proud of what I have been able to deliver to the people of the State of Michigan on issues important to that State.

I am very proud of what I have been able to do with respect to increasing transportation funding; stopping an effort to move to Washington control of the Great Lakes, the enviro-

As I close, I have a few moments upon which I will reflect. When one comes to the end of a 6-year period here, there are a lot of memories. It is probably possible for one to speak long into the night about the various things one recalls. I do remember being sworn in here that first day just a few steps in front of me by Vice President Gore, holding our family Bible and very nervously taking the oath of office because it was such an important moment in my life.

I remember the first day I sat in the President’s chair or said anything in the Senate. I considered it to be quite an important honor to be given that duty.

Then by the second and third day that I performed it, I realized exactly how
that responsibility was viewed by the other Members of this Chamber. This week I asked once again to have the chance to preside because I wanted to never forget just exactly how meaningful it is to serve in this Chamber.

I remember our first bill with regard to sentencing and seeing it signed into law. I remember standing at this desk and casting the very first vote on the impeachment trial that we had in January of 1999 with respect to the President. I think it was an unbelievably historic moment to have been a part. And of course I will never forget today, the chance to be here with colleagues and staff and friends speaking one last time in the Senate. Indeed, it is these moments, the chance to stand up and to make one's case for one's State, for one's beliefs, that will stay with me probably more than any other.

In closing, I will just make a few short observations. First, this institution is loved by great people. All too often we tend to take for granted the truly extraordinary political leaders who work here every day. I personally consider it a great honor and privilege to serve with people who will long be remembered by or forgotten by the whole history of our country, as giants in this Chamber—leaders such as Senator Strom Thurmond, retiring Member Sénator Robert Byrd—two on each side of the aisle whose contributions to their Nation and to this Chamber will never be forgotten, and two on each side of the aisle whose leadership I hope all of us will be able to in some way emulate in our careers. I know there will be others who are serving here and with whom I have served who someday will be looked upon the same way, as history records their accomplishments.

The second observation I have is for those sitting in the gallery, watching and paying attention to the action of the Senate. Sometimes the media and others tend to focus too much on the areas in which we disagree in this Chamber. Indeed, we do have our disagreements. That is why we have a democratic system that gives each side an opportunity to fight for their causes. But as the Presiding Officer knows, in the committees and usually on the floor of this Chamber, we work together on a bipartisan basis to get things done for the American people. More often than not, things pass here unanimously. They do so quietly. They do so by the unanimous-consent agreements that don’t get reported very often. Indeed, much of America’s business is accomplished without rancor and strife, without divisive debates. At the same time, the Founding Fathers created this Chamber as the saucer to cool the passions of the day.

I have observed that passion for philosophy, at least for ideas, reigns here in the Senate. I can remember during the last 6 years from the balanced budget amendment debates, when I first got here, to the debates over Bosnia and other foreign affairs issues, to the impeachment trial and so on, while we in the Senate obviously have a reputation for being a deliberative body, we also are a body in which the passions of the country are best reflected in the debates we have. I hope that will always be the tradition as well.

I yield. Indeed, I think this image really does reflect democracy at its finest. Over 150 years ago, De Tocqueville observed: "I confess that in America I saw more than America; I saw the image of democracy itself, with its inclinations, its character, its prejudices, and its passions, in order to learn what we have to fear or hope from its progress.

Some say this America, this image of democracy in the family no longer exists. But I say, that it does exist, right here in this great Chamber.

I will miss the Senate. I will miss the institution, and I will miss the people. Being a Senator has been my dream by profession. I hope that my 6 years here I have contributed in some small way to the rich history of what has been and forever will be called "the world’s greatest deliberative body in the world’s greatest democracy." It is a long distance from being the grandson of immigrants to this floor.

I know when my grandparents came here, they never dreamt that their grandson or anyone in the family would stand up as a Member of the U.S. Senate, but they came to America because they wanted to live in a place in which something such as that could happen. This is the one country where something such as that not only can happen, but has been possible for me. Their support in my life, but in many other families happened all the time. It is the greatest thing about America. I am proud and believe, as I leave the Senate, that I have helped contribute in my own small way during these 6 years to making sure that America always remains that country.

I thank everyone I have mentioned, but I especially thank my family, some of whom are here today, my wife Jane and my daughters Betsy and Julie, without whom none of this would have been possible for me. Their support in every way and their love and affection have made the difference in my life.

As I leave, I will only say that I hope all Americans will in their own way find a way to appreciate the greatness of this democracy. I hope all of my colleagues will continue to fight to make sure that that tradition, that Nation which my grandparents and so many others fought for, so many others strove to come to be part of, will always be available to those who seek freedom and liberty and opportunity and that that dream will be forever part of our great country.

I yield.

The PRESIDING OFFICER (Mr. Smith of Oregon). The Senator from Nebraska.

Mr. HAGEL. Mr. President, I rise to respond very briefly on behalf of this Senator, and I think I speak for the entire body when I say thank you to Senator Spence Abraham from Michigan for his contributions, his leadership, his statesmanship.

My grandfather Hagel used to occasionally pay the highest compliment to an individual when he would say: He is a good man.

Well, Spence Abraham is a good man. He will go on to do other very significant things with his life, with his talent, with his leadership. We will all be well served. It will impact the future of his children and our children, just as his service in the Senate has made this a better institution and a stronger Nation.

I have been privileged to serve with Spence Abraham, be his seatmate here on the Senate floor, and become a good friend. Of that friendship and that service, I am proud. I thank Senator Abraham.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. HAGEL. Mr. President, I ask unanimous consent that the Senate now be in a period of morning business with Senators speaking for up to 10 minutes each.

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

ANNIVERSARY OF PEARL HARBOR DAY

Mr. THURMOND. Mr. President, I rise today in remembrance of those who relinquished their lives at the Japanese attack of Pearl Harbor. As President Franklin Delano Roosevelt said at the time, December 7, 1941, will remain "a date which will live in infamy," for it was on this day that the Japanese forces attacked our unsuspecting Nation.

The first Japanese assault struck the United States naval base at Pearl Harbor, Hawaii, on the island of Oahu, at 7:55 a.m. The base was just awakening early Sunday morning when the sound of Japanese torpedo planes could be heard. The American armed forces in the Pacific were caught completely off guard. When a war warning was issued two weeks prior, Hawaii was not mentioned as a possible target. At the time, the American armed forces thought that the Philippines or Malaysia would be a possible area of attack, not the island of Hawaii. Therefore, Pearl Harbor was not prepared for the onslaught of
tor was to be admired for your service to the community, the nation, and for being chosen Country Doctor of the Year. I join your family, friends, and colleagues in congratulating you on this honor.

RETIREMENT OF JOYCE NEWTON

Mr. HATCH. Mr. President, at the end of December, one of my charter staff members will be retiring. Joyce Newton has been on my staff since I took office as the Senator from Utah in January 1977. As a freshman Senator, I was the beneficiary of Joyce's decade of previous experience as a caseworker for former Representatives Frank Horton and John Conlan and as a staffer at the Office of Management and Budget.

But, during these last 24 years, Joyce has helped countless Utahns with Social Security snafus, international adoptions, military transfers, and a whole host of other special needs and problems. Joyce has always been there to offer a sympathetic ear or to jump start a slow or reluctant bureaucracy. Joyce has been known to come to the office in the middle of the morning in order to telephone an embassy halfway around the globe.

She has been known to telephone the same Federal caseworker three times in one day just to make sure a constituent's application was not buried under other work, resulting in a needless delay or missed deadline.

She has been known to go to bat for constituents even when the grounds for their congressional appeals were shaky.

And, Joyce has been tenacious. She has pursued cases as far as she could. If we were unsuccessful in resolving a constituent problem, it was never for lack of trying—it was only for lack of more avenues.

I remember the “Books for Bulgaria” project. How could we get literally hundreds of pounds of books to Bulgaria at little or no cost to be used by a nonprofit organization for educational outreach in that distressed country? This was not an easy problem. Joyce somehow managed to solve it.

I remember the young woman from England who needed specialized surgery to cure a rare condition that prevented her from walking. Doctors at the University of Utah had pioneered a new technique not available anywhere else, but various INS rules needed to be sorted out in order for her to come and remain in our country long enough for recovery and rehabilitation. There is a woman able to walk today because Joyce got it done.

I have always had complete confidence in Joyce. When she phoned an agency, she was phoning for me. No Senator or Representative can possibly do this work by himself or herself. It takes dedicated, caring, and competent people to work through the various redtape entanglements that often ensnare our citizens.

These constituent service staffs too often work in the background. They don't attend signing ceremonies. They don't meet with celebrities or national leaders. They don't have bills and photographs, plaques or certificates on their office walls. Joyce Newton was one of these devoted individuals on Capitol Hill who labored quietly on behalf of the citizens of America. And, she did it.

There are thousands of citizens in my State—seniors, children, service men and women, families—who may not remember Joyce Newton's name. But, they will always remember what she did for them.

We are sorely going to miss Joyce Newton on the Hatch staff. And, today, I want to thank her publicly for all of her dedicated hard work over these last many years and wish her all the best in a much deserved, well-earned retirement.

BOB LOCKWOOD

Mr. HATCH. Mr. President, I pay public tribute to Bob Lockwood, who is finally retiring. I say “finally” because I tried to leave twice previously, and I successfully prevailed on him to stay. But, this time, it looks as if he is really going to do it.

Bob came to my staff after a long and distinguished career in the Army, serving in many capacities, including in Vietnam and on the Secretary of Defense staff. Bob has many credentials making him unique among military officers. He is a lawyer, an engineer, and an economist. He found an organization in the U.S. Army—where he could put all of these qualifications to work. So, when he wanted to establish a second career in public policy, I benefited from a man who could wear many hats. It will probably take three people to replace him.

Bob had the complex portfolios of defense and trade as well as business liaison. The amazing thing is that he is expert in all these areas as well as tenacious and unwilling to let any issue slide. There may be a few people at the Pentagon and at USTR who will cheer his retirement if only because Bob will not be around to bug them. On the other hand, I know firsthand that Bob is universally respected for his knowledge, his integrity, and his professionalism. He has big shoes that will be hard to fill.

Over the years, he has helped me to foster business development in Utah, to prepare for the landmark debates we have had on trade, and to protect our great Hill Air Force Base and other military facilities from ill-advised and politically motivated cuts and closures. I will always be grateful for his yeoman effort on these projects. Utah is better off today for his dedication to these causes.

Bob has also turned into a real Utahn during the years he has worked for me. Traveling to our State often during the year, he fell in love with
Utah and the possibilities that abound there. At the end of the month, Bob will go from being my employee to being my constituent.

I wish him well as he is taking on the new challenge of retirement, one for which I think he may well be pleased. I know Bob to be successful at any project he takes on. I know he will drive his wife nuts if he stays home very much. But he won't. He is one of those guys who really works hard and makes every second of his life count. He is one of my dearest friends, and I love him.

DONNA DAY

Mr. HATCH. I also want to say a word about Donna Day.

Donna has been on my staff for 15 years. She has been a loyal and efficient staffer, working diligently on data entry. I don't quite know how we will fill the hole left in our correspondence management unit when she retires at the end of the month.

If the personnel office at any organization were to write down the attributes of the perfect employee, the list would include Donna Day. She has worked tirelessly over these 15 years on my behalf. She is never late, rarely absent, and always pleasant. It seems that Donna never has a bad day. We have always been able to count on her day after day, year after year, to do an important job consistently well. And, I don't believe I have ever heard her complain about anything—not even the deluge of letters, cards, faxes, and e-mails we received during some very high profile debates.

Frankly, it is hard to imagine walking into our mailroom in January and not seeing her there sorting mail or working at the computer.

I have been blessed during my Senate tenure to have had excellent staff, not just in my policy and senior staff positions, but in the support roles as well. Donna has been such a staffer, and I will miss her.

I want to thank her for her many contributions to my office, congratulate her on a well-deserved retirement, and wish her all the best as she moves on to the next chapter in her life.

I want her to know how much I appreciate her and her colleague Joyce and how much I love and appreciate Bob Lockwood. These people have proven that government workers work above and beyond, that they really make a difference in all of our lives, and that they are part of the reason why many in this country have a quality of life they would not otherwise have.

I am so grateful to these three people and for the service they have given to our country, to the Senate, to my constituents. It has been such a privilege to work with them. I say "we" rather than "they." They新worked for me. They worked for all of us. They worked with me. I don't think I would be nearly as effective had it not been for the work that these three wonderful people have done. I pay personal tribute to them.

VICTIMS OF GUN VIOLENCE

Mr. AKAKA. Mr. President, it has been more than a year since the Columbine tragedy, but still this Republican Congress refuses to act on serious gun legislation.

Since Columbine, thousands of Americans have been killed by gunfire. Until the Democrats in the Senate will read the names of some of those who have lost their lives to gun violence in the past year, and we will continue to do so every day that the Senate is in session.

In the name of those who died, we will continue this fight. Following are the names of some of the people who were killed by gunfire one year ago today.

December 7, 1999: Jose Corral, 72, Mobile, Alabama; in 1998, only China, 17, Philadelphia, PA; Kowandius Hammett, 22, Miami-Dade County, FL; John Jeter, 24, Philadelphia, PA; Andre Derrell Jones, 23, Baltimore, MD; Tommy Martin, 38, Oakland, CA; Casey B. Morgan, 42, Seattle, WA; Karen Hilton Morgan, 43, Seattle, WA; Thomas B. Morgan, 45, Seattle, WA; Adon L. Shelby, 32, Chicago, IL; Emeric Tahane, 22, Washington, DC; Hei Minh Tran, 22, New Orleans, LA; and Unidentified Male, 23, Nashville, TN. We cannot and will not allow such senseless gun violence to continue. The deaths of these people are a reminder to all of us that we need to enact sensible gun legislation now.

THE RECORD ON EXECUTIONS

Mr. FEINGOLD. Mr. President, I rise with regret to mark another milestone in the history of our system of justice. This morning's papers report that yesterday the state of Texas carried out its 39th execution, the most of any state since 1862, when the military hanged 39 Native Americans in one day in Minnesota. This evening, Texas is scheduled to surpass that record with its 40th execution. This is a regrettable record.

This year, as of yesterday, states in America have executed 82 people. We have reached a sad state of affairs when this Country executes nearly 100 people every year. In 1998, only China, the Congo, and the Congo executed more people a year than did the United States.

And we have reached an inequitable state of affairs when nearly half of the executions this year—39 out of the 82 to date—were carried out in just one state. The state with the next most executions this year, Oklahoma, has had 11 executions. Southern states have carried out nearly 9 out of 10 executions that have taken place this year.

Across the street, the building that holds the Supreme Court of the United States has emblazoned across its pediment the words "Equal Justice Under Law." In a Nation that prides itself in that equal justice, how can we abide a system where nearly half of the executions are carried out in just one state? Finally, I rise to mark another milestone. On Tuesday of next week, the Federal Government is scheduled to re-enter the grim business of execution. For nearly 40 years, no one has been executed in the name of the people of the United States. That is set to change next Tuesday.

In light of the demonstrated evidence of regional and racial disparity in the application of this most final punishment, I call on the President to stay that execution. I call on the President to impose a moratorium on Federal executions and establish a blue ribbon commission to examine the fairness of the system of capital punishment in America.

In September, the Department of Justice released a report on the federal death penalty system. That report found that whether the federal system sends people to death row appears to be related to the federal district in which they are prosecuted or the color of their skin.

After the Justice Department released the report, White House spokesman Jake Siewert confirmed the President's view that "these numbers are troubling" and that more information must be gathered to determine "more about the way the system works and what's behind those numbers," including "why minorities in some geographic districts are disproportionately represented."

We do not yet know why our federal system produces racially and geographically lopsided results. We need a systematic review.

Many are joining in asking the President for a moratorium on executions. Their ranks include, among so many others, Lloyd Cutler, the esteemed former advisor to Presidents Carter and Clinton; Julian Bond, Chairman of the NAACP; and the Reverend Joseph Lowrey, chair of the Black Leadership Forum and President emeritus of the Southern Christian Leadership Conference.

Yes, justice demands that crimes be punished. But if we demand justice, we must administer justice fairly.

Before we reach the milestone of re-instituting Federal executions, let us pause to evaluate the fairness of our Nation's machinery of death.

Mr. President, let this be a milestone that we choose not to reach, next week. If God willing, let this be a milestone that we choose not to reach, if ever, for some time to come.

ADDITIONAL STATEMENTS

AMBASSADOR DAVID HERMELIN

Mr. BIDEN. Mr. President, I rise today to pay tribute to David B. Hermelin, former U.S. Ambassador to Norway, who passed away on November 22.
After a distinguished business and philanthropic career in his native Michigan, Mr. Hermelin was nominated as envoy to Norway by President Clinton in 1997 and confirmed by the Senate that same year.

Members of this Chamber know that, as might be expected with any large group, over the years the performance of our ambassadors, both career diplomats and political appointees, have varied widely. By any standard, David Hermelin’s tenure was spectacularly successful.

In the short space of two years, Ambassador Hermelin managed a remarkable feat: strengthening the already close ties between our ally Norway and the United States. His diplomatic and personal charm led to unprecedented reciprocal visits within three weeks of each other last year—the Norwegian Prime Minister’s to Washington, and President Clinton’s to Oslo, the first ever visit of an incumbent President to Norway, in this case in pursuit of a Middle Eastern peace settlement.

But Ambassador Hermelin’s accomplishments were not limited to such high-profile events. Through his behind-the-scenes daily efforts, he was directly instrumental in the success of Lockheed Martin’s bid, as part of a consortium, to sell the Norwegian Navy five new frigates equipped with the Aegis missile system, a sale worth more than one billion dollars.

Ambassador Hermelin was recognized for his many contributions by being awarded the Royal Norwegian Order of Merit for his honor for the country bestowed upon non-Norwegians.

Even after Ambassador Hermelin was diagnosed with a terminal illness, he vigorously played a major role to help others through an international initiative to fight civil conflict, such as in Sierra Leone.

On his visit to Oslo in November 1999, President Clinton, in speaking of Ambassador Hermelin, reflected on this kind of behavior: “I don’t know anyone who has such a remarkable combination of energy and commitment to the common good.”

After diagnosis of his terminal illness, he and a group of friends donated more than one billion dollars to establish a brain tumor center at Henry Ford Hospital in Michigan.

Ambassador Hermelin felt deeply connected to Israel and to Jewish causes, raising millions of dollars for local and overseas needs.

After the Ambassador’s death, the U.S. State Department’s Norway desk officer offered this heartfelt testimony: “David Hermelin was the kind of man who made a friend out of everybody he met, and who always worked for him at the embassy regarded him with an affection that is unmatched by the feelings I’ve seen for any other ambassador at any time and anywhere.”

Ambassador Hermelin is survived by his wife, five children, and eight grandchildren. He will be sorely missed by all who knew him, particularly by his colleagues in the U.S. Government.

RECOGNITION OF DR. DWIGHT CRIST NORTHHINGTON

- Mr. TORRICEIL. Mr. President, I rise today to recognize Dr. Dwight Crist Northington on the occasion of his 9th Pastoral Anniversary at Calvary Baptist Church in Red Bank, New Jersey. Dr. Northington is an extremely gifted individual, and it is an honor to recognize this special moment in his life.

Dr. Northington has served the citizens of New Jersey since 1968, when he was named Pastor of First Baptist Church of South Orange. Since that time, he has also served as president of Westside Ministerial Alliance and currently serves as the Moderator of the Seacoast Missionary Baptist Association. While having done a great deal for the community of Red Bank, Dr. Northington has also served as an instructor at Brookdale Community College and as a member of the Borough of Red Bank Board of Education.

The needs of our Nation can only be met through the industrious efforts of each individual. The work of Dr. Northington and others like him is vital to the continued prosperity of our communities and meeting the needs of people who live within them.

The citizens of Red Bank are fortunate to have a talented and dedicated individual such as Dr. Northington in their community.

TRIBUTE TO VINCENT CANBY

- Mr. JOHNSON. Mr. President, I rise today to congratulate Josh Heupel, a native of Aberdeen, South Dakota. All of South Dakota, and especially Aberdeen, is extremely proud of Josh, one of four finalists for the Heisman Trophy. The Heisman Trophy is presented annually to the nation’s top collegiate football player.

Josh is the starting quarterback of the number one ranked and undefeated Oklahoma Sooners, 12-0. Josh has passed for 3,392 yards and 20 touchdowns this year which makes him one of the Heisman favorites. Josh has led the Oklahoma Sooners through a very difficult schedule, which included two wins against top ten ranked Kansas State and overcame an early 14 point deficit against the then number one ranked Nebraska Cornhuskers. Josh is preparing for the National Championship game on January 3, 2001 against the Florida State Seminoles. No matter what the outcome is, I know the entire state is very proud of Josh and grateful he has conducted himself in a manner that shines greatly on South Dakota.

I would also like to take this opportunity to congratulate Ken and Cindy Heupel, Josh’s parents, on Josh’s success. As the father of three children, this accomplishments in extracurricular activities, can imagine how proud Ken and Cindy must feel today. Ken is currently the Head Football Coach at Northern State University in Aberdeen and Cindy is the principal at Aberdeen Central High School.

Again, my congratulations to Josh Heupel and his family on behalf of the entire state of South Dakota.

TRIBUTE TO VINCENT CANBY

- Mr. MOYNIHAN. Mr. President, in late October, as many Senators will recall, Vincent Canby, whose lively wit and sophisticated tastes illuminated film and theater reviews in the New York Times for more than 35 years, died at age 76. Thinking of an appropriate manner in which the 107th Congress will wish to pursue this matter, I think for example of the “honoring clause” of the fourth amendment recently much discussed in learned papers associated with the University of Chicago School of Law. And so I set out to obtain advisory opinions. Alas, I had to recall too long November 7 had passed. The Presidential election was in dispute. All of the constitutional lawyers in Washington had decamped for Florida.

And now, in the closing hours of the 106th Congress, they are still there. This leaves me with no choice but to withhold the measure for now. Happily I am informed that next April we will witness the premier of The Wandering Company’s adaptation of Henry James’ The Golden Bowl. What a splendid way to begin the new millennium. (For those that have not read it yet, or who are of any quality whatsoever if Ismail Merchant, James Ivory and Ruth Prawer Jhabvala are available, and if they elect to do the job. Trespassers should be prosecuted, possibly confined, sentenced to watch “Adam Bede” on “Masterpiece Theatre” for five to seven years.

The legislative drafting service had no difficulty producing legislative language. I had in mind a joint resolution, which is, of course, a statute. However, in view of our oath “to uphold and defend the Constitution of the United States,” I felt in need of a legal opinion as to whether there might be constitutional impediments to such a measure. I think for example of the “honing clause” of the fourth amendment recently much discussed in learned papers associated with the University of Chicago School of Law. And so I set out to obtain advisory opinions. Alas, I had to recall too long November 7 had passed. The Presidential election was in dispute. All of the constitutional lawyers in Washington had decamped for Florida.

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The enrolled resolution was signed subsequently by the President pro tempore (Mr. Thurmond).

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-11757. A communication from the Office of the Assistant Secretary, Civil Works, Department of the Army, transmitting, pursuant to law, the report of a rule entitled “Revisions to the California State Implementation Plan, Ventura County Air Pollution Control District”. (FRL #6908-1) received on December 5, 2000, to the Committee on Environment and Public Works.

EC-11758. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Revisions to the California State Implementation Plan, Ventura County Air Pollution Control District” (FRL #6908-1) received on December 5, 2000, to the Committee on Environment and Public Works.

EC-11759. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Nonsignificant Air Quality Reassessment and Rework Facilities” (FRL #6913-9) received on December 5, 2000, to the Committee on Environment and Public Works.

EC-11760. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Ohio” (FRL #694-71) received on December 5, 2000, to the Committee on Environment and Public Works.

EC-11761. A communication from the Secretary of the Department of Agriculture, transmitting, pursuant to law, the report of the rule entitled “National Forest System Land and Resource Management Planning” (RIN0599-A9-B2) received on November 9, 2000, to the Committee on Agriculture, Nutrition, and Forestry.

EC-11762. A communication from the Secretary of the Department of Agriculture, transmitting, pursuant to law, the corrected report (reference to ec11596) of the rule entitled “Non-citizen Eligibility and Certification Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996” (RIN0584-A0-C4) received on November 27, 2000, to the Committee on Agriculture, Nutrition, and Forestry.

EC-11763. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Fludioxinol; Extension of Tolerance for Emergency Exemptions” (FRL #6756-6) received on December 5, 2000, to the Committee on Agriculture, Nutrition, and Forestry.

EC-11764. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Avermectin; Extension of Tolerance for Emergency Exemptions” (FRL #6754-5) received on December 5, 2000, to the Committee on Agriculture, Nutrition, and Forestry.

EC-11765. A communication from the Secretary of the Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Rules and Regulations under the Textile Fiber Products Identification Act, Rules and Regulations under the Wool Products Labeling Act” (RIN3084-0101, 3084-000) received on November 29, 2000, to the Committee on Commerce, Science, and Transportation.

EC-11766. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Closure of the Commercial Fishery for Gulf Grouper in the Florida West Coast Subzone” received on December 5, 2000, to the Committee on Commerce, Science, and Transportation.

EC-11767. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Adjustments from the U.S.-Canada Border to the Oregon-California Border” received on December 5, 2000, to the Committee on Commerce, Science, and Transportation.

EC-11768. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Adjustments from the U.S.-Canada Border to the Oregon-California Border” received on December 5, 2000, to the Committee on Commerce, Science, and Transportation.

MESSAGES FROM THE HOUSE

At 3:55 p.m., a message from the House of Representatives, delivered by one of its clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

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

ENROLLED BILL SIGNED

At 4:39 p.m., a message from the House of Representatives, delivered by one of its clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 127. Joint Resolution making further continuing appropriations for the fiscal year 2001, and for other purposes.
EC-11774. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, pursuant to law, the report of a rule entitled "Indirect Food Additives: Paper and Paperboard Component" (Docket No. 99F-1719) received on December 5, 2000, to the Committee on Health, Education, Labor, and Pensions.

EC-11775. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Secondary Direct Food Additives Permitted in Food for Human Consumption" (Docket No. 00F-1332) received on December 5, 2000, to the Committee on Health, Education, Labor, and Pensions.

EC-11776. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Radiation Processing, and Handling of Food" (Docket No. 99F-1912) received on December 5, 2000, to the Committee on Health, Education, Labor, and Pensions.

EC-11777. A communication from the Secretary of Education, transmitting, pursuant to law, a report relative to the national advisory committee on institutional quality and integrity for fiscal year 2000, to the Committee on Health, Education, Labor, and Pensions.

EC-11778. A communication from the Secretary of Education, transmitting, pursuant to law, the report of the texts of international agreements, other than treaties, and background statements to the Committee on Foreign Relations.

EC-11779. A communication from the Assistant Secretary (Legal Affairs), Department of Energy, pursuant to law, the report of a rule entitled "Visas: Immigrant Religious Worshippers" (RIN 41470-06) received on December 7, 2000, to the Committee on Foreign Relations.

EC-11781. A communication from the Deputy General Counsel, Office of Size Standards, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled "Small Business Standard Sizes; Health Care" (RIN 3245-AE 06) received on December 5, 2000, to the Committee on Small Business.

EC-11782. A communication from the Deputy General Counsel, Office of Small Business Investment Companies, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled "Small Business Investment Companies; Cost of Money" (RIN 0150-A 08) received on December 5, 2000, to the Committee on Small Business.

EC-11783. A communication from the Chairman, Centennial of Flight Commission, in concurrence with the National Aeronautics Space Administration Administrator, transmitting, pursuant to law, the annual report for the fiscal year 2001, to the Committee on Governmental Affairs.

EC-11784. A communication from the President of the United States, transmitting, pursuant to law, a report relative to the alternative plan for federal employee locality-based comparability payments; to the Committee on Governmental Affairs.

EC-11785. A communication from the Chairman and the General Counsel of the National Labor Relations Board, transmitting, pursuant to the Inspector General Act, the semiannual report for the period April 1, 2000 through September 30, 2000, to the Committee on Governmental Affairs.

EC-11786. A communication from the Chair of the Railroad Retirement Board, transmitting, pursuant to the Inspector General Act, the semiannual report for the period April 1, 2000 through September 30, 2000, to the Committee on Governmental Affairs.

EC-11787. A communication from the Corporation for National Service, transmitting, pursuant to the Inspector General Act, the semiannual report for the period April 1, 2000 through September 30, 2000 as well as a report on final action, to the Committee on Governmental Affairs.

EC-11788. A communication from the Administrator, General Services Administration, transmitting, pursuant to the Inspector General Act, the semiannual report for the period April 1, 2000 through September 30, 2000 to the Committee on Governmental Affairs.

EC-11790. A communication from the Chairman of the National Science Board, transmitting, pursuant to law, the report of the texts of international agreements, other than treaties, and background statements to the Committee on Foreign Relations.

EC-11791. A communication from the Acting Secretary of Veterans Affairs, transmitting, pursuant to law, the report of the Inspector General for the period April 1, 2000 through September 30, 2000, to the Committee on Governmental Affairs.

EC-11792. A communication from the Attorney General, Department of Justice, transmitting, pursuant to law, the report of the Inspector General for the period April 1, 2000 through September 30, 2000 to the Committee on Governmental Affairs.

EC-11793. A communication from the Director of the Workforce Compensation and Performance Service, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Pay Under the General Schedule, Locality-Based Comparability Payments" (RIN 2006-AJ 07) received on December 5, 2000, to the Committee on Government Relations.

EC-11794. A communication from the Attorney Advisor Federal Register Certifying Officer, Financial Management Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Federal Claims Collection Standards" (RIN 15150-AA57 and 1105-AA31) received on November 9, 2000, to the Committee on Finance.

NOMINATION DISCHARGED

Pursuant to a unanimous consent agreement of December 7, 2000, the Committee on Foreign Relations was discharged of the following nomination:

DEPARTMENT OF STATE


INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DOMENICI (for himself and Mr. LUGAR):

S. 3275. A bill to authorize the Secretary of Energy to guarantee loans to facilitate nuclear nonproliferation programs and activities of the Government of the Russian Federation, and for other purposes; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DURBIN (for himself and Mr. FITZGERALD):

S. Res. 385. A resolution congratulating the Reverend Clay Evans of Chicago, Illinois, on the occasion of his retirement; considered and agreed to.

By Mr. SMITH of New Hampshire (for himself, Mr. INOUYE, Mr. HELMS, and Mr. INHOFE):

S. Res. 386. A resolution expressing the sense of the Senate regarding National Pearl Harbor Remembrance Day; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

Mr. DOMENICI. Mr. President, I rise to introduce the Fissile Material Loan Guarantee Act. This Act is intended to increase the arsenal of programs that reduce proliferation threats from the Russian nuclear weapons complex. This Act presents an unusual option, which I've been discussing with the leadership of some of the world's largest private banks and lending institutions and with senior officials of the Russian Federation's Ministry for Atomic Energy. I also am aware that discussions between Western lending institutions and the Russian Federation are progressing well and that discussions with the International Atomic Energy Authority or IAEA have helped to clarify their responsibilities.

This Act would enable the imposition of international protective safeguards on new, large stocks of Russian weapons-grade materials used to collateralize these loans. It also requires that the materials used to collateralize these loans must remain under international IAEA safeguards forever.

This Act does not replace programs that currently are in place to ensure that weapons-grade materials can...
never be used in weapons in the future. The Highly Enriched Uranium or HEU Agreement is moving toward elimination of 500 tons of Russian weapons-grade uranium. The Plutonium Disposition Agreement is similarly working on elimination of 34 tons of Russian weapons-grade plutonium.

The HEU agreement removes material usable in 20,000 nuclear weapons, while the plutonium disposition agreement similarly removes material for more than 4,000 nuclear weapons. Both of these agreements enable the transition of Russian materials into commercial reactor fuel, which, after use in a reactor, destroys its “weapons-grade” attributes. There should be no question that both these agreements remain of vital importance to both nations.

But estimates are that the Russian Federation has vast stocks of weapons-grade materials in addition to the amounts they’ve already declared as surplus to their weapons needs in these earlier agreements. If we do not provide additional incentives to Russia to encourage transition of more of these materials into configurations where it is not available for diversion or re-use in weapons, we’ve made another significant step toward global stability.

By introducing this Act now, Mr. President, I’m hoping that this concept will be carefully reviewed by all interested parties—by the new Administration, by lending institutions, and by the Russian Federation. My hope is that in the next Congress, these interests can come together to enable this new approach to still further reduce the proliferation threats from surplus weapons materials in the Russian nuclear weapons complex.

ADDITIONAL COSPONSORS

S. 195

At the request of Mr. JEFFORDS, the name of the Senator from Washington (Mr. SMITH) was added as a cosponsor of S. 195, a bill to enhance the services provided by the Environmental Protection Agency to small communities that are attempting to comply with national, State, and local environmental regulations.

S. 375

At the request of Mr. CRAIG, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 375, a bill to amend the Consolidated Farm and Rural Development Act to authorize the National Rural Development Partnership, and for other purposes.

S. 3250

At the request of Mr. BROWNBACK, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 3250, a bill to provide for a United States response in the event of a unilateral attack on a Palestinian state.

S. CON. RES. 87

At the request of Mr. SMITH of New Hampshire, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. Con. Res. 87, a concurrent resolution commending the Holy See for making significant contributions to international peace and human rights, and objecting to efforts to expel the Holy See from the United Nations by removing the Holy See’s Permanent Observer status in the United Nations, and for other purposes.

SENATE RESOLUTION 385—CONGRATULATING THE REVEREND CLAY EVANS OF CHICAGO, IL, ON THE OCCASION OF HIS RETIREMENT

Mr. DURBIN (for himself and Mr. FITZGERALD) submitted the following resolution; which was considered and agreed to:

S. RES. 395

Whereas Reverend Clay Evans was ordained as a Baptist minister 50 years ago, in 1950, and founded and served as the Pastor of the Fellowship Missionary Baptist Church in Chicago, Illinois, for 40 years;

Whereas Reverend Evans has been happily married to Lutha Mae Holfish Evans for over 50 years, and with her is the proud parent of five children;

Whereas Reverend Evans has been responsible for helping launch the ministerial careers of 93 individuals, including 6 female ministers;

Whereas Reverend Evans received Honorary Doctorate of Divinity Degrees from Arkansas Baptist College and Brewer Theological Clinic and School of Religion;

Whereas Reverend Evans has been an active participant in the Civil Rights Movement since 1955;

Whereas Reverend Evans is the founding National Board Chairman of Operation P.U.S.H. and currently serves as its Chairman Emeritus;

Whereas Reverend Evans is Founding President of the Broadcast Ministers Alliance of Chicago, Founding President of the American Religious Connection, Trustee Board Chairman of Chicago Baptist Institute, and Board member of the National Baptist Convention, U.S.A., Inc.;

Whereas Reverend Evans is a featured soloist on numerous albums of the 250 Voice Choir of Fellowship Missionary Baptist Church and 1996 Stellar Award winner of the #1 Gospel Album "I've Got a Testimony";

Whereas Reverend Evans authored a 1992 autobiographical book, "From Plough Handle to Pulpit," which sold thousands of copies and was rewritten in 1997; Now, therefore, be it Resolved, That the Senate—

(1) congratulates the Reverend Clay Evans on his retirement as Pastor of the Fellowship Missionary Baptist Church;

(2) acknowledges the affection that Reverend Evans’ congregation shares for him; and

(3) extends its best wishes to Reverend Evans and his family on the occasion of his retirement.

SENATE RESOLUTION 386—EXpressing the Sense of the Senate Regarding National Pearl Harbor Remembrance Day

Mr. SMITH of New Hampshire (for himself, Mr. INOUYE, Mr. HELMS, and Mr. INHOFE) submitted the following resolution; which was considered and agreed to:

S. RES. 386

Whereas on December 7, 1941, the Imperial Japanese Navy and Air Force attacked units of the Armed Forces of the United States stationed at Pearl Harbor, Hawaii;

Whereas 2,403 members of the Armed Forces of the United States were killed in the attack on Pearl Harbor;

Whereas there are currently more than 12,000 members of the Pearl Harbor Survivors Association;

Whereas the 60th anniversary of the attack on Pearl Harbor will be observed on December 7, 2001; and

Whereas Public Law 103-308, enacted as section 129 of title 36, United States Code, requests the President to issue a proclamation each year calling on the people of the United States to observe National Pearl Harbor Remembrance Day with appropriate ceremonies and activities, and for all departments, agencies, and instrumentalities of the Federal Government, and interested organizations, groups, and individuals, to fly the flag of the United States at half-staff each December 7 in honor of the individuals who died as a result of their service at Pearl Harbor;

Whereas many citizens remain unaware of the National Pearl Harbor Remembrance Day; and

Whereas many Federal offices do not lower their flags to half-staff each December 7; Now, therefore, be it

Resolved, That the Senate—

(1) pays tribute to the citizens of the United States who died in the attack on Pearl Harbor, Hawaii, December 7, 1941, and to the members of the Pearl Harbor Survivors Association; and

(2) urges the President to take more active steps—

(A) to inform the American public of the existence of National Pearl Harbor Remembrance Day; and

(B) to ensure that the flag of the United States is flown at half-staff in accordance with section 129 of title 36, United States Code.

NOTICE OF HEARING COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI of Alaska. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, December 12, 2000, at 10:00 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, D.C.

The title of this hearing is “Natural Gas Markets: One Year After the National Petroleum Council’s Gas Report.”

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, 364 Dirksen Senate Office Building, Washington, D.C. 20510-6150.
Resolved, That the bill from the Senate (S. 1694) entitled “An Act to direct the Secretary of the Interior to conduct a study on the reclamation and reuse of water and wastewater, and to designate the State of Hawaii”, do pass with the following amendments:

Strike out all after the enacting clause and insert:

TITLE I—HAWAII WATER RESOURCES STUDY

SEC. 101. SHORT TITLE.

This title may be cited as the “Hawaii Water Resources Act of 2000.”

SEC. 102. DEFINITIONS.

In this title:

(1) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(2) STATE.—The term “State” means the State of Hawaii.

SEC. 103. HAWAII WATER RESOURCES STUDY.

(a) In General.—The Secretary, acting through the Commissioner of Reclamation and in accordance with the provisions of this title and existing legislative authorities as may be pertinent to the provisions of this title, including: the Act of August 23, 1954 (68 Stat. 733, chapter 838), authorizing the Secretary to investigate the use of irrigation and reclamation projects for water resources development and for the reclamation and reuse of water and wastewater for agricultural and nonagricultural purposes; the Home Lands Recovery Act (109 Stat. 364; 25 U.S.C. 390h(b)) (commonly known as the “Small Reclamation Projects Act”); and the Act of August 6, 1956 (70 Stat. 1044, chapter 972; 42 U.S.C. 386a) authorizing the Secretary to assess charges against Native Hawaiians for reclamation costs; such charges are assessed against Indians or Indian tribes is authorized and directed to conduct a study that includes:

(1) a survey of irrigation and other agricultural water delivery systems in the State;

(2) an estimation of the cost of repair and rehabilitation of the irrigation and other agricultural water delivery systems;

(3) an evaluation of options and alternatives for future use of the irrigation and other agricultural water delivery systems (including alternatives that would improve the use and conservation of water resources and would contribute to agricultural diversification, economic development, improvements to environmental quality); and

(4) the identification and investigation of opportunities for recycling, reclamation, and reuse of water and wastewater for agricultural and nonagricultural purposes.

(b) Reports.—

(1) IN GENERAL.—Not later than 2 years after appropriation of funds authorized by this title, the Secretary shall submit a report that describes the findings and recommendations of the study described in subsection (a) to—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Resources of the House of Representatives.

(2) ADDITIONAL REPORTS.—The Secretary shall submit to the committees described in paragraph (1) any additional reports concerning the study described in subsection (a) that the Secretary considers to be necessary.

(c) COST SHARING.—Costs of conducting the study and preparing the reports described in subsections (a) and (b) of this section shall be shared between the Secretary and the State. The Federal share of the costs shall be determined to be equivalent to 50 percent of the total cost, and shall be nonreimbursable. The Secretary shall enter into a written agreement with the State, describing the arrangements for payment of the non-Federal share.

(d) USE OF OUTSIDE CONTRACTORS.—The Secretary is authorized to employ the services and expertise of the State and/or the services and expertise of a private consultant employed under contract with the State to conduct the study and prepare the reports described in this section in accordance with the requirements of the Agreement and if it can be demonstrated to the satisfaction of the Secretary that such an arrangement will result in the satisfactory completion of the work authorized by this section in a timely manner and at a reduced cost.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $300,000 for the Federal share of the activities authorized under this title.

SEC. 104. WATER RECLAMATION AND REUSE.

(a) Section 1602(b) of the Reclamation-Wetland Water and Groundwater Reclamation and Reuse Study Act (43 U.S.C. 390h(b)) is amended by inserting before the period at the end the following: “, and the State of Hawaii”.

(b) The Secretary is authorized to use the authorities available pursuant to section 1602(b) of the Reclamation-Wetland Water and Groundwater Reclamation and Reuse Study Act (43 U.S.C. 390h) to conduct the relevant portion of the study and preparation of the reports authorized by this title if the use of such authorities is found by the Secretary to be appropriate and cost-effective.

(c) The Secretary shall report on the costs for the study and reports does not exceed the amount authorized in section 103.
Project, and such added costs shall be reimbursed in accordance with reclamation law and policy.

(b) Effective Date.—The credit under subsection (a) shall take effect upon the date on which—
(1) the City and the Secretary have agreed that the extension of the facilities referred to in subsection (a) has been completed in accordance with the terms and conditions of the letter of agreement referred to in subsection (a); and
(2) the Secretary has issued determination that such facilities are fully operational as intended.

TITLE IV—CLEAR CREEK DISTRIBUTION SYSTEM CONVEYANCE

SEC. 401. SHORT TITLE.
This title may be cited as the “Clear Creek Distribution System Conveyance Act”.

SEC. 402. DEFINITIONS.
For purposes of this title:
(1) Secretary.—The term “Secretary” means the Secretary of the Interior.
(2) District.—The term “District” means the Clear Creek Community Services District, a California community services district located in Shasta County, California.

(3) Agreement.—The term “Agreement” means Agreement No. 8-07-20-L975 entitled “Agreement Between the United States and the Clear Creek Community Services District to Transfer Title to the Clear Creek Distribution System to the Clear Creek Community Services District.”

(4) Distribution System.—The term “Distribution System” means all the right, title, and interest in and to the Clear Creek distribution system as defined in the Agreement.

SEC. 403. CONVEYANCE OF DISTRIBUTION SYSTEM.
In consideration of the District accepting the obligations of the Federal Government for the Distribution System, the Secretary shall convey the Distribution System to the District pursuant to the terms and conditions set forth in the Agreement.

SEC. 404. RELATIONSHIP TO EXISTING OPERATIONS.
Nothing in this title shall be construed to authorize the District to construct any new facilities or to expand or otherwise change the use or operation of the Distribution System from its authorized purposes based upon historic and current use and operation. Effective upon transfer, the District shall comply with all applicable laws and regulations governing such changes at that time.

SEC. 405. RELATIONSHIP TO CERTAIN CONTRACT OBLIGATIONS.
Conveyance of the Distribution System under this title—
(1) shall not affect any of the provisions of the District’s existing water service contract with the United States (contract number 14-06-200-489-IK3), as it may be amended or supplemented;
(2) shall not deprive the District of any existing contractual or statutory entitlement to subse- quent Basin renewals of such contract or to renewal by entering into a long-term water service contract.

SEC. 406. LIABILITY.
Effective on the date of conveyance of the Distribution System under this title, the United States shall not be liable under any law for damages of any kind arising out of any act, omission, or occurrence based on its prior ownership or operation of the conveyed property.

TITLE V—SUGAR PINE DAM AND RESERVOIR CONVEYANCE

SEC. 501. SHORT TITLE.
This title may be cited as the “Sugar Pine Dam and Reservoir Conveyance Act”.

SEC. 502. DEFINITIONS.
In this title:
(1) Bureau.—The term “Bureau” means the Bureau of Reclamation.
(2) District.—The term “District” means the Foresthill Public Utility District, a political subdivision of the State of California.
(3) Project.—The term “Project” means the improvements (and associated interests) authorized in the Foresthill Divide Subunit of the Aurora-Folsom South Unit, Central Valley Project, consisting of—
(A) Sugar Pine Dam;
(B) the right to impound waters behind the dam;
(C) the associated conveyance system, holding reservoir, and treatment plant;
(D) water rights;
(E) rights of the Bureau described in the agreement of June 11, 1985, with the Supervisor of Tahoe National Forest, California; and
(F) other associated interests owned and held by the United States and authorized as part of the Auburn-Folsom South Unit under Public Law 89-161 (79 Stat. 615).

(4) Secretary.—The term “Secretary” means the Secretary of the Interior.


SEC. 503. CONVEYANCE OF PROJECT.
(a) In General.—As soon as practicable after the date of enactment of this Act and in accordance with all applicable law, the Secretary shall convey all right, title, and interest in and to the Project to the District.
(b) Sale Price.—Except as provided in subsection (c), on payment by the District to the Secretary of $2,772,221—
(1) the Secretary shall be relieved of all payment obligations relating to the Project; and
(2) all debt under the Water Services Contract shall be extinguished.
(c) Mitigation and Restoration Payments.—The District shall continue to be obligated to make payments under section 3407(c) of the Central Valley Project Improvement Act (106 Stat. 4726) through 2029.

SEC. 504. RELATIONSHIP TO EXISTING OPERATIONS.
(a) In General.—Nothing in this title significantly expands or otherwise affects the use or operation of the Project from its current use and operation.
(b) Right to Occupy and Flood.—On the date of the conveyance under section 503, the Chief of the Forest Service shall grant the District the right to occupy and flood portions of land in Tahoe National Forest, subject to the terms and conditions of the agreement between the District and the Supervisor of the Tahoe National Forest.
(c) Changes in Use or Operation.—If the District changes the use or operation of the Project, the District shall comply with all applicable laws (including regulations) governing the change at no cost to the United States.

SEC. 505. FUTURE BENEFITS.
On payment of the amount under section 503(b)—
(1) the Project shall no longer be a Federal reclamation project or a unit of the Central Valley Project; and
(2) the District shall not be entitled to receive any further reclamation benefits.

SEC. 506. LIABILITY.
Except as otherwise provided by law, effective on the date of conveyance under section 503, the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence based on its prior ownership or operation of the Project.

SEC. 507. COSTS.
To the extent that costs associated with the Project are incurred, the Secretary is directed to exclude all costs in excess of the amount of costs repaid by the District from the pooled reimbursable costs of the Central Valley Project until such time as the Project has been operationally integrated into the water supply of the Central Valley Project. Such excess costs may not be included into the pooled reimbursable costs of the Central Valley Project in the future unless a court of competent jurisdiction determines that it is not a prerequisite to the inclusion of such costs pursuant to Public Law 89-161.

TITLE VI—COLUSA BASIN WATERSHED INTEGRATED RESOURCES MANAGEMENT

SEC. 601. SHORT TITLE.
This title may be cited as the “Colusa Basin Watershed Integrated Resources Management Act”.

SEC. 602. AUTHORIZATION OF ASSISTANCE.
The Secretary of the Interior (in this title referred to as the “Secretary”), acting within existing budgetary authority, may provide financial assistance to the Colusa Basin Drainage District, California (in this title referred to as the “District”), for use by the District or by local agencies acting pursuant to section 413 of the State of California statute known as the Colusa Basin Drainage Act (California Stats. 1987, ch. 1399) as in effect on the date of the enactment of this Act (in this title referred to as the “State statute”), for planning, design, environmental compliance, and construction required in carrying out eligible projects in the Colusa Basin Watershed to—
(1) reduce the risk of damage to urban and agricultural areas from flooding or the discharge of drainage water or tailwater;
(2) assist in groundwater recharge efforts to alleviate overdraft and land subsidence; or
(3) construct, restore, or preserve wetland and riparian habitat; and
(c) capture, as an incidental purpose of any of the purposes referred to in paragraph (1), surplus or stormwater for conservation, conjunctive use, and increased water supplies.

SEC. 603. PROJECT SELECTION.
(a) Eligible Projects.—A project shall be an eligible project for purposes of section 602 only if—
(1) consistent with the plan for flood protection and integrated resources management described in the document entitled “Draft Programmatic Environmental Impact Statement/Environmental Impact Report and Draft Program Financing Plan, Integrated Resources Management Program for Flood Control in the Colusa Basin”, dated May 2000; and
(2) carried out in accordance with that document and all environmental documentation requirements that apply to the project under the laws of the United States and the State of California.

(b) Compatibility Requirement.—The Secretary shall ensure that projects for which assistance is provided under this title are not inconsistent with watershed protection and environmental restoration efforts being carried out by the Authority of the Central Valley Project Improvement Act (Public Law 102-575, 106 Stat. 4706 et seq.) or the CALFED Bay-Delta Program.

SEC. 604. COST SHARING.
(a) Non-Federal Share.—The Secretary shall require that the District and cooperating non-Federal agencies or organizations pay—
(1) 25 percent of the costs associated with construction of any project funded out with assistance provided under this title;
(2) 100 percent of any operation, maintenance, and replacement and rehabilitation costs with respect to such a project; and
(3) 35 percent of the costs associated with planning, design, and environmental compliance activities.

(b) Planning, Design, and Compliance Assistance.—Funds appropriated pursuant to this title may be made available to fund 65 percent of
costs incurred for planning, design, and envi-
ronmental compliance activities by the District or by local agencies acting pursuant to the State statute, in accordance with agreements with the Secretary.
(c) TREATMENT OF CONTRIBUTIONS.—For pur-
poses of this section, the Secretary shall treat the value of lands, interests in lands (including rights-of-way and easements), and necessary relocation costs contributed by the District to a project as a payment by the District of the costs of the project.
SEC. 605. COSTS NONREIMBURSABLE.
A amounts expended pursuant to this title shall be considered nonreimbursable for purposes of the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 371 et seq.), and is hereby deemed to be nonreimbursable.
SEC. 606. AGREEMENTS.
Funds appropriated pursuant to this title may be made available to the District or to a local agency only if the District or local agency, as appli-
cable, has entered into a binding agreement with the Secretary:
(1) under which the District or the local agen-
cy is required to pay the non-Federal share of the costs of construction required by section 604(a); and
(2) complying with the funding of planning, design, and compliance activities costs under section 604(b).
SEC. 607. REIMBURSEMENT.
For project work (including work associated with studies, planning, design, and construc-
tion) carried out by the District or by a local agency acting pursuant to the State statute in section 602 before the date amounts are provided for the project under this title, the Secretary shall, subject to amounts being made available in advance in appropriate Acts, reimburse the District or the local agency, without inter-
est, an amount equal to the estimated Federal share of the cost of such work under section 604.
SEC. 608. COOPERATIVE AGREEMENTS.
(a) In General.—The Secretary may enter into cooperative agreements and contracts with the District to assist the Secretary in carrying out the purposes of this title.
(b) Subcontracting.—Under such cooperative agreements and contracts, the Secretary may authorize the District to manage any contracts and receive reimbursements, subject to amounts being made available in advance and under appropriate acts, for work carried out under such contracts or subcontract.
SEC. 609. RELATION TO RECLAMATION RE-
Activities carried out, and financial assistance provided, under this title shall not be considered a supplement to, or benefit for purposes of the Reclamation Reform Act of 1992 (96 Stat. 1263; 43 U.S.C. 390a et seq.).
SEC. 610. APPROPRIATIONS AUTHORIZED.
Within existing budgetary authority and subject to the availability of appropriations, the Secretary is authorized to expend up to $25,000,000, plus such additional amount, if any, as may be required by reason of changes in costs of services and activities involved in the District’s projects as shown by engineering and other relevant indexes to carry out this title. Such amounts authorized under this section shall remain available until expended.

TITLE VII—CONVEYANCE TO YUMA PORT
AUTHORITY

SEC. 701. CONVEYANCE OF LANDS TO THE GRE-
ATER YUMA PORT AUTHORITY.
(a) AUTHORITY TO CONVEY.—
(1) IN GENERAL.—The Secretary of the Inter-
ior, acting through the Bureau of Reclamation, may, within 12 months beginning on the date of the enactment of this Act and in accordance with the conditions specified in subsection (b) convey to the Greater Yuma Port Authority the interests described in paragraph (2).
(2) INTERESTS DESCRIBED.—The interests re-
ferred to in paragraph (1) are the following:
(A) All right, title, and interest of the United States in and to the lands comprising Section 23, Township 11 South, Range 24 West, G&SRBM, Lots 1-4, NE¼, NW¼, S½ SW¼, excluding lands located within the 60-foot border strip, in Yuma County, Arizona.
(B) All right, title, and interest of the United States in and to the lands comprising Section 24, Township 11 South, Range 24 West, G&SRBM, East 300 feet of Lot 1, excluding lands located within the 60-foot border strip, in Yuma County, Arizona.
(C) All right, title, and interest of the United States in and to the lands comprising Section 24, Township 11 South, Range 24 West, G&SRBM, East 300 feet of Section 15, Township 11 South, Range 24 West, G&SRBM, in Yuma County, Arizona.
(D) All right, title, and interest of the United States in and to the lands comprising the East 300 feet of the Southeast Quarter of Section 15, Township 11 South, Range 24 West, G&SRBM, in Yuma County, Arizona.
(E) The right to use lands in the 60-foot bor-
der strip excluded under subparagraphs (A), (B), and (C), for ingress to and egress from the international boundary between the United States and Mexico.
(b) DEED COVENANTS AND CONDITIONS.—Any conveyance under subsection (a) shall be subject to the following covenants and conditions:
(1) A reservation of rights-of-way for ditches and canals constructed or to be constructed by the authority of the United States, this reserva-
tion to extend across the international boundary and as far as that created with respect to certain public lands by the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945), as it has been, or may hereafter be amended.
(2) A leasehold interest in Lot 1, and the west 100 feet of Lot 2 in Section 23 for the operation of a cattle guard, and the surrendered interest of a cattle guard, oper-
ated by the Yuma-Sonora Commercial Com-
pany, Incorporated. The lease as currently held contains 24.68 acres, more or less. Any renewal of this lease, if granted, shall be by the Greater Yuma Port Authority.
(3) Reservation by the United States of a 245-
foot perpetual easement for operation and main-
tenance of the 242 Lateral Canal and Well Field along the northern boundary of the East 300 feet of Section 22, Section 23, and the West 300 feet of Section 24 as shown on Reclamation Drawing No. 1292-303-3624, 1292-303-3623, and 1292-303-3626.
(4) A reservation by the United States of all rights to the ground water in the East 300 feet of Section 15, the West 300 feet of Section 22, Section 23, and the West 300 feet of Section 24, and the right to remove, sell, transfer, or ex-
change the water to meet the obligations of the Treaty of 1944 with the Republic of Mexico, and as determined by a suitable survey.
(5) Reservation of a 10-foot easement for mainte-
nance of the 242 Lateral Canal and Well Field along the northern boundary of the East 300 feet of Section 22, Section 23, and the West 300 feet of Section 24 as shown on Reclamation Drawing No. 1292-303-3624, 1292-303-3623, and 1292-303-3626.
(6) A right-of-way reservation in favor of the United States and its contractors, and the State of Arizona, and its contractors, to utilize a 33-
foot easement along all section lines to freely give ingress to, passage over, and egress from adjacent areas in the exercise of official duties of the United States and the State of Arizona.
(7) Reservation of a right-of-way for the United States for a 100-foot by 100-foot parcel for each of the Reclamation monitoring wells, together with unrestricted ingress and egress to both sites. One monitoring well is located in Lot 1 of Section 23 just north of the Boundary Re-
serve. The other monitoring well is located along the Cattle Crossing Facility, and the other is located in the southeast corner of Lot 3 just north of the Boundary Re-
serve.
(8) An easement comprising a 50-foot strip lying North of the 60-foot International Bound-
ary Reserve for drilling and operation of, and access to, wells.
(9) A reservation by the United States of 10½% of all gas, oil, metals, and mineral rights.
(10) A reservation of 1½% of all gas, oil, metals, and mineral rights retained by the State of Ari-
zona.
(11) Such additional terms and conditions as the Secretary considers necessary to protect the interests of the United States.
(c) CONSIDERATION.—
(1) IN GENERAL.—As consideration for the con-
veyance under subsection (a), the Greater Yuma Port Authority shall pay the United States consider-
ation equal to the fair market value on the date of the enactment of this Act of the interest consid-
ered.
(2) DETERMINATION.—For purposes of para-
graph (1), the fair market value of any interest in the property described under subsection (a) shall be determined, after account by the United States Federal governmental purposes, and the Greater Yuma Port Authority shall pay to the United States for the interest described under subsection (a), equal to the fair market value of the property as determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Greater Yuma Port Authority.
(h) DEFINITIONS.—
(1) 60-FOOT BORDER STRIP.—The term “60-foot border strip” means lands in any of the Sections of land referred to in this Act located within 600 feet of the international boundary between the United States and Mexico.
(2) GREATER YUMA PORT AUTHORITY.—The term “Greater Yuma Port Authority” means Trust No. 84-184, Yuma Title & Trust Company, an Arizona Corporation, a trust for the benefit of the Yuma-Sonoran Port Authority, the County of Yuma, Arizona, the City of Somerton, and the City of San Luis, Arizona, or such other successor joint powers agency or public purpose entity as unanimously designated by those govern-
mental units.
(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Bureau of Reclamation.

TITLE VIII—DICKINSON DAM BASCULE GATES SETTLEMENT

SEC. 801. SHORT TITLE.
This title may be cited as the “Dickinson Dam Bascule Gates Settlement Act of 2000”.

SEC. 802. FINDINGS.
The Congress finds that—
(1) in 1980 and 1981, the Bureau of Reclama-
tion constructed the bascule gates on top of the Dickinson Dam on the Heart River, North Da-
kota, to provide additional water supply in the reservoir known as Patterson Lake for the city of Dickinson, North Dakota, and for additional flood control and other benefits.
(2) the gates had to be significantly modified in 1982 because of damage resulting from a large ice block causing excessive pressure on the hy-
drauli system, causing severe damage to the gates.
(3) since 1991, the City has received its water supply from the Southwest Water Authority,
which provides much higher quality water from the Southwest Pipeline Project; 
(4) the City now receives almost no benefit from the bascule gates because the City does not require high-quality water provided by the bascule gates for its municipal water supply; 
(5) the City has repaid more than $1,200,000 to the United States in lieu of the scheduled annual repayment obligation.

In this title:
(1) BASCULE GATES.—The term “bascule gates” means the structure constructed on the Dam to provide additional water storage capacity in the Lake.
(2) CITY.—The term “City” means the city of Dickinson, North Dakota.
(3) DAM.—The term “Dam” means Dickinson Dam on the Heart River, North Dakota.
(4) LAKE.—The term “Lake” means the reservoir known as “Paterson Lake” in the State of North Dakota.
(5) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation.

SEC. 804. FORGIVENESS OF DEBT.

(a) IN GENERAL.—The Secretary shall accept a 1-time payment of $300,000 in lieu of the existing repayment obligations of the City under the Bureau of Reclamation Contract No. 9-07-60W0384, dated December 19, 1988, toward which amount any payments made by the City to the Secretary on or after June 2, 1998, shall be credited.

(b) OWNERSHIP.—Title to the Dam and bascule gates shall remain with the United States.

(c) COSTS.—(1) The Secretary shall enter into an agreement with the City to allocate responsibilities for operation and maintenance costs of the bascule gates as provided in this subsection.
(2) The City shall be responsible for operation and maintenance costs of the bascule gates, up to a maximum annual cost of $15,000. The Secretary shall be responsible for all other costs.

(d) WATER SERVICE CONTRACTS.—The Secretary may enter into appropriate water service contracts if the City or any other person or entity seeks to use water from the Lake for municipal water purposes.

Amend the title so as to read “An Act to direct the Secretary of the Interior to conduct a study on the reclamation and reuse of water and wastewater in the State of Hawaii, and for other purposes.”

Mr. HAGEL. Mr. President, I ask unanimous consent that the Senate agree to amendments of the House with respect to each of these measures.

The PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT TO THE MAGNUSON-STEVENS FISHERIES CONSERVATION AND MANAGEMENT ACT

Mr. HAGEL. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 5461, which is at the desk.

The PRESIDENT pro tempore. Without objection, the amendment of FISHER will be agreed to.

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5461) to amend the Magnuson-Stevens Fisheries Conservation and Management Act to eliminate the wasteful and unsportsmanlike practice of shark finning.

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

Mr. HOLLINGS. Mr. President, I rise to make a few remarks on H.R. 5461, the Shark Finning Prohibition Act, legislation to begin, and I stress the word begin, to ensure the conservation of sharks, including addressing the causes and consequences of shark finning.

First, I want to recognize Ms. SNOW, our chair on the Oceans and Fisheries Subcommittee on the Commerce Committee, and Mr. KERRY, ranking member of the subcommittee, for putting shark conservation legislation on the committee agenda this Congress. My colleagues recognized the substantial danger international fleets pose to sharks around the world, either as a result of direct harvest, high bycatch, or practices such as shark finning. As with so many of our highly migratory and protected species, we cannot hope to address these threats solely through domestic action.

We are here today because of the growing threats to shark populations, which are particularly vulnerable to harvest and bycatch mortality. Most attention has been focused specifically on the practice of shark finning, which has increased dramatically over the past decade, driven by rising demand for fins in the world market. However, there are other threats to shark conservation, including directed shark fisheries and the use of non-selective fishing gear, that must be given further, other, here and abroad.

In addition, the amount of finning done by U.S. fishermen pales by comparison to the amount of finning done by foreign fleets outside of U.S. waters. The global shark fin trade involves at least 70 vessels and over 2 million sharks, and other shark products has increased dramatically in shark fishing and shark mortality around the world. In 1998, the National Marine Fisheries Service estimated that 120 metric tons of shark fins were landed in Hawaii that had been caught by foreign vessels, with a value between $2,376,000 and $2,640,000. That is roughly four times the amount landed by U.S. vessels in the same year.

These figures indicate that international shark fin trade creates an international water market that far exceeds domestic markets and foreign vessels, which are particularly vulnerable to international measures to prohibit shark finning, including the practice of finning. H.R. 5461 is the only way to prevent this by applying these rules to everyone. Simply enacting H.R. 5461 without addressing shark conservation internationally is short-sighted and will not solve the problem. In the next Congress, I intend to continue working with my colleagues in the Senate, House, and the new administration, whichever administration that may turn out to be, to craft a solution that will lead to the eventual cessation of finning internationally.

Although I do believe that the current bill is not as strong as it should be, I am glad to report it contains a number of provisions from the Senate bill that I urge its adoption, but I cannot help but think of what we may have been able to accomplish with passage of S. 2831, the Shark Conservation Act of 2000, introduced by Senator KERRY, and supported by our subcommittee members, was the best course of action to take this year. S. 2831 attempted to address threats to shark conservation in a holistic manner. It looked beyond domestic finning, and provided the administration with tools to address finning by foreign nations as well. As a result, the current bill does not contain the strong international enforcement measures of the Shark Conservation Act. Dr. Andrew Rosenberg of the National Marine Fisheries Service, in October 1999 testimony before the House warned of the consequences of failing to impose international measures against shark finning: . . . even with implementation of new U.S. management measures to prohibit shark finning, in all likelihood, foreign-flagged vessels will continue shark finning in international waters. In the absence of strict international measures to prohibit shark finning, the anticipated result of new U.S. prohibitions would be that foreign vessels will develop new shipment routes for shark fins through ports outside Hawaii.

The administration’s warning should be taken seriously. When all the press releases and headlines have faded from memory, there is no doubt that foreign fleets will silently, and happily, continue to fin sharks, with no adverse repercussions to speak of. We sincerely hope that H.R. 5461 will not merely shift shark-finning and the resulting profits over to foreign nations and international corporations, but will not benefit foreign conservation. The only way to prevent this is by applying these rules to everyone.
Mr. KERRY. Mr. President, I rise to make a few remarks in support of H.R. 5461, the Shark Finning Prohibition Act, which will the Senate has passed today and which will be forwarded to President Clinton for his signature.

H.R. 5461 is similar to a provision I authored, along with Senator SNOWE, in Senate Amendment 4320. That provision was then introduced in the House by Representative CUNNINGHAM as a stand alone bill and passed the House on October 30. I want to thank Senators HOLLINGS and SNOWE who helped move this legislation through the Commerce Committee and the Senate. And, I thank Representative CUNNINGHAM for his work.

Shark finning is the practice of catching a shark, removing its fins and returning the remainder of the shark to the sea. It is highly wasteful practice since only a very small portion of the shark is consumed and the rest is dumped back into the sea. The National Marine Fisheries Service already prohibits shark finning in the Atlantic and Gulf of Mexico. This legislation would expand that ban into the Pacific and create a consistent national policy by amending the Magnuson-Stevens Fishery Conservation and Management Act.

Sharks are among the most biologically vulnerable species in the ocean. Their slow growth, late maturity and small number of offspring leave them exceptionally vulnerable to overfishing and slow to recover from depletion. At the same time, sharks, as top predators, are essential to maintaining the balance of life in the sea. While many of our other highly migratory species such as tuna and swordfish are subject to rigorous management regimes, sharks have largely been banned the import of sharks or shark products has driven dramatic increases in shark fishing and shark mortality around the world. There are other threats to sharks in addition to finning in domestic waters. These include directed fisheries, by-catch and the use of non-selective gear. And, importantly, we must recognize that shark finning takes place in foreign and international waters, not just the United States waters. The global shark fin trade involves at least 125 countries, and the demand for shark fins and other shark products has driven imports. shark fin trade involves at least 125 countries, and the demand for shark fins and other shark products has driven dramatic increases in shark fishing and shark mortality around the world. We must tackle these issues, as well.

I want to note that in the Commerce Committee we tried to address the issue of international shark finning more aggressively and I, believe, more appropriately. Senator HOLLINGS and I introduced S. 2831, the Shark Conservation Act. I hope that my colleagues and the advocacy groups that advocated for this proposal will continue to work for additional international conservation measures.

Finally, my bill would authorize a Western Pacific longline fisheries cooperative research program to provide information for shark stock assessments, identify fishing gear and practices that prevent or minimize incidental catch of sharks and ensure maximum survival of released sharks, and provide data on the international shark fin trade.

Mr. President, the United States is a global leader in fisheries conservation and management. I believe this legislation provides us the opportunity to further this role, and take the first step in addressing an international fisheries management issue. In addition, I believe the U.S. should continue to lead efforts at the United Nations and international conventions to achieve coordinated international management of sharks, including an international ban on shark finning. I look forward to working with Committee members on this important legislation.

Mr. HAGEL. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the Record.

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

The resolution (S. Res. 385) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

WHEREAS Reverend Evans authored a 1992 autobiography book, "From Pulpit Handle to Pulpit," which sold thousands of copies and was rewritten in 1997; Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the Reverend Clay Evans on his retirement as Pastor of the Fellowship Missionary Baptist Church and 1996 Stellar Award winner of the #1 Gospel Album "I've Got A Testimony";

(2) acknowledges the affection that Reverend Evans' congregation shares for him; and

(3) extends its best wishes to Reverend Evans and his family on the occasion of his retirement.

The legislative clerk read as follows:

A resolution (S. Res. 385) congratulating the Reverend Clay Evans of Chicago, Illinois, on the occasion of his retirement.

The resolution was agreed to.

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

Mr. HAGEL. I ask unanimous consent that the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements related to the bill be printed in the Record.

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

The resolution (S. Res. 385) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

WHEREAS the Reverend Clay Evans was ordained as a Baptist minister 50 years ago, in 1950. and founded and served as the Pastor of the Fellowship Missionary Baptist Church in Chicago, Illinois, for 40 years; WHEREAS Reverend Evans has been happily married to Lutha Mae Hollinshed Evans for over 50 years, and with her is the proud parent of five children; WHEREAS Reverend Evans has been responsible for helping launch the ministerial careers of 93 individuals, including 6 female ministers; WHEREAS Reverend Evans received Honorary Doctorate of Divinity Degrees from Arkansas Baptist College and Brewster Theological Clinic and School of Religion; WHEREAS Reverend Evans has been an active participant in the Civil Rights Movement since 1960, WHEREAS Reverend Evans is the founding National Board Chairman of Operation P.U.S.H. and currently serves as its Chairman Emeritus; WHEREAS Reverend Evans is Founding President of the Broadcast Ministers Alliance of Chicago, Founding President of the African American Religious Connection, Trustee Board Chairman of Chicago Baptist Institute, and Board member of the National Baptist Convention, U.S.A., Inc.; WHEREAS Reverend Evans is a featured soloist on numerous albums of the 250 Voice Choir of Fellowship Missionary Baptist Church and 1996 Stellar Award winner of the #1 Gospel Album "I've Got A Testimony";

WHEREAS Reverend Evans authored a 1992 autobiographical book, "From Pulpit Handle to Pulpit," which sold thousands of copies and was rewritten in 1997; Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the Reverend Clay Evans on his retirement as Pastor of the Fellowship Missionary Baptist Church and 1996 Stellar Award winner of the #1 Gospel Album "I've Got A Testimony";

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The legislative clerk read as follows:

A resolution (S. Res. 385) congratulating the Reverend Clay Evans of Chicago, Illinois, on the occasion of his retirement.

The resolution was agreed to.

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

Mr. HAGEL. I ask unanimous consent that the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements related to the bill be printed in the Record.

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

The resolution (S. Res. 385) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

WHEREAS the Reverend Clay Evans was ordained as a Baptist minister 50 years ago, in 1950, and founded and served as the Pastor of the Fellowship Missionary Baptist Church in Chicago, Illinois, for 40 years; WHEREAS Reverend Evans has been happily married to Lutha Mae Hollinshed Evans for over 50 years, and with her is the proud parent of five children; WHEREAS Reverend Evans has been responsible for helping launch the ministerial careers of 93 individuals, including 6 female ministers; WHEREAS Reverend Evans received Honorary Doctorate of Divinity Degrees from Arkansas Baptist College and Brewster Theological Clinic and School of Religion; WHEREAS Reverend Evans has been an active participant in the Civil Rights Movement since 1960, WHEREAS Reverend Evans is the founding National Board Chairman of Operation P.U.S.H. and currently serves as its Chairman Emeritus; WHEREAS Reverend Evans is Founding President of the Broadcast Ministers Alliance of Chicago, Founding President of the African American Religious Connection, Trustee Board Chairman of Chicago Baptist Institute, and Board member of the National Baptist Convention, U.S.A., Inc.; WHEREAS Reverend Evans is a featured soloist on numerous albums of the 250 Voice Choir of Fellowship Missionary Baptist Church and 1996 Stellar Award winner of the #1 Gospel Album "I've Got A Testimony";

WHEREAS Reverend Evans authored a 1992 autobiographical book, "From Pulpit Handle to Pulpit," which sold thousands of copies and was rewritten in 1997; Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the Reverend Clay Evans on his retirement as Pastor of the Fellowship Missionary Baptist Church and 1996 Stellar Award winner of the #1 Gospel Album "I've Got A Testimony";

(2) acknowledges the affection that Reverend Evans' congregation shares for him; and

(3) extends its best wishes to Reverend Evans and his family on the occasion of his retirement.

The legislative clerk read as follows:

A resolution (S. Res. 385) congratulating the Reverend Clay Evans of Chicago, Illinois, on the occasion of his retirement.

Resolved, That the Senate—

(1) congratulates the Reverend Clay Evans on his retirement as Pastor of the Fellowship Missionary Baptist Church and 1996 Stellar Award winner of the #1 Gospel Album "I've Got A Testimony";

(2) acknowledges the affection that Reverend Evans’ congregation shares for him; and

(3) extends its best wishes to Reverend Evans and his family on the occasion of his retirement.
The resolution (S. Res. 386) expressing the sense of the Senate regarding National Pearl Harbor Remembrance Day.

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

Mr. HAGEL. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements related to the resolution be printed in the Record.

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

The resolution (S. Res. 386) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 386

Whereas on December 7, 1941, the Imperial Japanese Navy and Air Force attacked units of the Armed Forces of the United States stationed at Pearl Harbor, Hawaii;

Whereas 2,403 members of the Armed Forces of the United States were killed in the attack on Pearl Harbor;

Whereas there are currently more than 12,000 members of the Pearl Harbor Survivors Association;

Whereas the 60th anniversary of the attack on Pearl Harbor will be on December 7, 2001;

Whereas on August 23, 1994, Public Law 103-308 was enacted, designating December 7 of each year as National Pearl Harbor Remembrance Day;

Whereas Public Law 103-308, reenacted as section 129 of title 36, United States Code, requests the President to issue a proclamation each year calling on the people of the United States to observe National Pearl Harbor Remembrance Day with appropriate ceremonies and activities, and for all departments, agencies, and instrumentalities of the Federal Government, and interested organizations, groups, and individuals, to fly the flag of the United States at half-staff each December 7 in honor of the individuals who died as a result of their service at Pearl Harbor;

Whereas many citizens remain unaware of National Pearl Harbor Remembrance Day; and

Whereas many Federal offices do not lower their flags to half-staff each December 7. Now, therefore, be it

Resolved, That the Senate—

(1) pays tribute to the citizens of the United States who died in the attack on Pearl Harbor, Hawaii, on December 7, 1941, and to the members of the Pearl Harbor Survivors Association; and

(2) urges the President to take more active steps—

(A) to inform the American public of the existence of National Pearl Harbor Remembrance Day; and

(B) to ensure that the flag of the United States is flown at half-staff in accordance with section 129 of title 36, United States Code.

ORDERS FOR FRIDAY, DECEMBER 8, 2000

Mr. HAGEL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it recess until the hour of 10 a.m. on Friday, December 8. I further ask consent that on Friday, immediately following the prayer, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business until 10:30 a.m., with Senators permitted to speak for up to 10 minutes each with the time equally divided in the usual form.

Mr. REID. Mr. President, reserving the right to object, I say to my friend from Nebraska, the acting leader, it is my understanding we are going to try to extend the CR until Monday. I hope in the spirit that was felt around here today, that we were going to try to complete this session's work sometime next week, we can continue that. I do say, just as a warning to everyone, we have been to this point on a number of occasions before with this session of Congress. It seems we can never quite get over the goal line.

I hope all Members, Democrats and Republicans, will do their utmost to try to work this out. We have four appropriations bills that are badly needed. In my opinion—and I think everyone in the minority agrees—it would be a shame if we were unable to complete those bills and have to go forward with a continuing resolution, in effect dumping all that in the lap of the new President and new Congress.

Of course, I am not going to object to my friend's unanimous consent request, but I do say we should really try to put our shoulders to the wheel and push this session over the goal line.

Mr. HAGEL. I thank the Senator. I know that is the intent of the leadership.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

PROGRAM

Mr. HAGEL. Mr. President, for the information of all Senators, the Senate will be in a period of morning business until 10:30 a.m. tomorrow. The House is expected to consider a continuing resolution that would continue funding through Tuesday, December 12 early tomorrow morning. It is the intention of the Senate to pass the continuing resolution by voice vote as soon as it is received from the House. Therefore no votes are expected prior to Tuesday, December 12, at a time to be determined.

EXECUTIVE SESSION

Mr. HAGEL. Mr. President, in executive session I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of the nomination of Richard N. Gardner, the Senate immediately proceed to his consideration, the nomination be confirmed, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nomination considered and confirmed is as follows:

DEPARTMENT OF STATE


LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

RECESS UNTIL 10 A.M. TOMORROW

Mr. HAGEL. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 5:24 p.m., recessed until Friday, December 8, 2000, at 10 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate December 7, 2000:

DEPARTMENT OF STATE