local levels for their leadership in advancing public health. Mark Montigny's role on these vital issues in the Massachusetts legislature has helped our State to make impressive progress in improving the quality and affordability of health care for all citizens.

In July 1996, one of Senator Montigny's principal legislative initiatives was enacted into law, to provide health insurance for the 160,000 children in Massachusetts without such insurance. His initiative also launched a pilot prescription drug subsidy program for senior citizens.

These initiatives are financed by a 25 cent increase in the State cigarette tax. The linkage between the cigarette tax and children's health insurance in Senator Montigny's bill was one of the principal models for the national children's health insurance legislation enacted by Congress as part of the balanced budget agreement this year.

New Bedford and Massachusetts are proud of Mark Montigny's leadership on these issues. I congratulate him on the AMA's award, and I look forward to working closely with him in the years ahead.

NATO EXPANSION

Mr. CAMPBELL. Mr. President, this morning the Senate Appropriations Committee, on which I serve, held an important hearing on the topic of NATO expansion. Secretary of State Madeleine Albright and Secretary of Defense William Cohen testified at this hearing.

I feel that it is fitting at this time to keep in mind one of our recently retired colleagues who has played such a pivotal role in advancing the cause of NATO expansion. I am referring to my good friend from Colorado, Senator Hank Brown.

Few people have played a more crucial or steadfast role for the cause of NATO expansion than Senator Brown. He started his efforts after Stalin's notorious Iron Curtain crumbled and never let up. His devotion and successes in advancing NATO expansion has made Hank Brown a warmly regarded household name throughout Central Europe, including the three countries that have been invited to join NATO in this first round of expansion, Poland, Hungary, and the Czech Republic.

In fact, in the fall of 1996, the people of Poland showed their highest regards for Senator Brown by awarding him Honorary Polish citizenship in the name of the historic capital of Poland, Krakow. This is one of Poland's most prestigious honors. To this day, only two other Americans have received this honor, President Ronald Reagan and President George Bush.

I recall a moving speech that Senator MIKULSKI—who sits on the Appropriations Committee with me—gave right here on the Senate Floor just after the Brown NATO Expansion Amendment passed last fall. Senator MIKULSKI said that her mother had just placed a picture of Hank Brown in a place of honor on her fireplace mantle at home. I hope it is still there. This is but one illustration of how the debate over NATO expansion transcends party lines.

Senator Hank Brown has been one of the most effective advocates of securing freedom and peace for the people of Europe. We appreciated his valuable leadership in the Senate on the cause of NATO expansion. His legacy continues as the Senate proceeds with its consideration of this issue of great importance to the national security interests of the United States.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HUTCHINSON (for himself and Mr. INHOFE):

S. 1299. A bill to limit the authority of the Administrator of the Environmental Protection Agency and the Food and Drug Administration to ban metered-dose inhalers; to the Committee on Labor and Human Resources.

By Mr. GRAMS (for himself and Ms. MOSELEY-BRAUN):

S. 1300. A bill to provide for the minting and circulation of new one dollar coins; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GRASSLEY (for himself and Mr. DURBIN):

S. 1301. A bill to amend title 11, United States Code, to provide for consumer bankruptcy protection, and for other purposes; to the Committee on the Judiciary.

By Mr. FAIRCLOTH (for himself and Mr. MOYNIHAN):

S. 1302. A bill to permit certain claims against foreign states to be heard in United States courts where the foreign state is a state sponsor of international terrorism or where no extradition treaty with the state existed at the time the claim arose and where no other adequate and available remedies exist; to the Committee on the Judiciary.

By Mr. LIEBERMAN (for himself, Mr. HAGEL, Mr. KERREY, and Mr. MURKOWSKI):

S. 1303. A bill to encourage the integration of the People's Republic of China into the world economy, ensure United States trade interests, and establish a strategic working relationship with the People's Republic of China as a responsible member of the world community; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 137. A resolution to authorize testimony, production of documents, and representation of employees of Senate in the cases of *United States* v. *Tara LaJuan Edwards* and *United States* v. *Robbin Tiffani Stoney;* considered and agreed to.

By Mr. DEWINE:

S. Con. Res. 54. A concurrent resolution expressing the sense of the Congress that the United States Postal Service should maintain the postal uniform allowance program; to the Committee on Governmental Affairs.

By Mr. GREGG (for himself, Mr. WARNER, and Mr. ROBB):

S. Con. Res. 55. A concurrent resolution declaring the annual memorial service sponsored by the National Emergency Medical Services Memorial Service Board of Directors to honor emergency medical services personnel to be the ''National Emergency Medical Services Memorial Service''; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HUTCHINSON (for himself and Mr. INHOFE):

S. 1299. A bill to limit the authority of the Administrator of the Environmental Protection Agency and the Food and Drug Administration to ban metered-dose inhalers; to the Committee on Labor and Human Resources.

THE ASTHMA INHALER REGULATORY RELIEF ACT

Mr. HUTCHINSON. Mr. President, I come to the Senate floor to talk about an issue which literally means life and breath to 30 million Americans. It appears that in an effort to clean up the environment, some heavy-handed bureaucrats are willing to reduce the quality of life for those Americans—children, adults, and senior citizens—who are dependent upon inhalers like this inhaler that I have with me today. As I rode the elevator up to the Chamber, I mentioned to the elevator operator what I was going to be doing. She said, ''Well, please do it because it means life to me. I have to have this to breathe.''

I have a nephew, John Paul, who is an asthmatic, who has been dependent upon these inhalers that would be outlawed unless we act as the Senate.

Because of this, I am offering the Asthma Inhaler Regulatory Relief Act, AIRR, which would block the Food and Drug Administration from banning certain metered dose inhalers, MDI's. I am glad today that Senator SHELBY, Senator BOND, and Senator DEWINE have all joined as original cosponsors on this legislation. Senator DEWINE has a special interest in this, with four of his children, it is my understanding, being asthmatics and being dependent upon these inhalers. These inhalers are used by nearly 30 million Americans who suffer from respiratory diseases such as asthma, chronic obstructive pulmonary disease, and cystic fibrosis. These people have come to rely on their inhalers as a lifeline for daily living. Yet, the FDA at this time, in its very questionable wisdom, has decided that inhalers severely damage the environment and must be banned. One of only a few avenues to the outside world, the FDA would seal this avenue and ban these inhalers.

The FDA initially published an advanced notice of a proposed rulemaking to eliminate the use of MDI's that use chlorofluorocarbons on March 6, 1997. About this time, I received several letters which initially sparked my interest in the issue. I have come to

find out that the FDA, in collaboration with the Environmental Protection Agency, proposed this rule as part of the EPA's desire to eliminate all uses of chlorofluorocarbons as soon as possible. Most metered dose inhalers use CFC's as the propellant to deliver the medicine from the inhaler to the lungs of the patient. Under the 1987 Montreal protocol CFC's are to be phased out globally by the year 2005. However, certain uses of CFC's, including this inhaler, were explicitly recognized by signatories of the protocol as vital to human health while posing relatively little harm to the environment. This exception has allowed the continued manufacture and use of inhalers which use CFC's as their propellants.

This exception, however, is being threatened by the Food and Drug Administration despite the objections of many, including the American Academy of Family Physicians. In their May 5, 1997 letter to Michael Friedman, Deputy Commissioner of the FDA, the physicians wrote:

> The Academy believes that the proposed rule might negatively affect our patients' health care and urges the FDA to continue to deem MDI's as ''essential'' under the Montreal Protocol.

These are the doctors who deal with our children day in and day out. They reiterated twice in their letter that they support eliminating CFC's from the environment but feel that this shortened timetable is not necessary and may be detrimental, very detrimental to their patients' health.

Carol Browner, the Administrator of the Environmental Protection Agency, has come to the Congress on numerous occasions to lobby on behalf of EPA's proposed clean air standards. I serve on the clean air subcommittee. We have had Administrator Browner before us numerous times as an advocate for children. One of the most compelling arguments she has made on behalf of these new air standards is that she is saving the children and the elderly from unnecessary respiratory illness. I respect Ms. Browner for her zeal to protect children and the elderly, but I find it ironic and amazing and I have to wonder how she can support taking the medication away from those whom she claims to be trying to protect.

I wonder how she can look these children in the eye and tell them she is taking away the one thing that allows them to play outside and enjoy the high-energy activities of running, climbing and participating in sports. Ms. Browner's actions will literally rob them of their childhood and force them to sit on the sidelines. Of course, the EPA has an answer. First, the EPA and the FDA will tell us there are other MDI's available that will provide the necessary protection for these children. The truth is there is only one that is currently available. Many are in the research and development stages, but that pales in comparison to the hundreds of these inhalers that are available currently.

Doctors will tell you that different patients react differently to different medications. There are many inhalers that are virtually identical in composition yet have dramatically different effects on various patients. Again, quoting the American Academy of Family Physicians:

> We are concerned that the proposed rule will severely limit the number of therapies available to our patients. We know that a drug that works for one patient may not work for another. We would like our members to have the flexibility to try different therapies to find the one that is most effective for their patients.

Simply put, 1 inhaler is not enough and 10 is not enough. Doctors must have the ability to choose the medication that best suits their patients. In the case of respiratory treatment, one size definitely does not fit all.

Another concern I have with allowing one inhaler to dominate the market is the cost to the consumer. Obviously, where there are hundreds as currently exist, including many generic brands, there will be lower prices for the consumer. If we allow the FDA and the EPA to ban CFC inhalers, many may not be able to afford the treatment. The majority of patients who suffer from these symptoms live in the inner-city where the cost of living is very high and their income very low. These families rely on inhalers which can cost eight times less than newer name brand products without CFC's. If these children from low-income inner-city families lose the most accessible inhaler, they are less likely to continue adequate treatment which is so important to a normal life.

According to a recent Wall Street Journal article, the Joint Council of Allergy, Asthma and Immunology has told both the FDA and the EPA that because of these increased costs, their proposal will unfairly punish poor children and the elderly who have the highest risks of asthma-related sickness and death.

A certain consequence of a decrease in the use of inhalers as part of a schedule to keep asthma in control is an increase in hospital admissions and an increase in deaths. According to a panel of the National Institute for Allergies and Infectious Diseases, between 1980 and 1993 failure to comply with treatment explains a 300 percent increase in asthma-related deaths among children. This proposal put forth by the EPA and the FDA will increase costs and can only worsen this statistic.

Another common argument the EPA will use is that by banning CFC's, we are making the air more safe for children and the elderly. While certainly there are studies that show these gases are harmful and increase the probability that an asthmatic will have an attack, if you look at the statistics, you will find that inhalers, such as this one, account for at most 1.5 percent of all CFC's produced in the world. The EPA supports taking away nearly 30 million people's inhalers to eliminate approximately 1.5 percent of the CFC's produced. That hardly seems like a logical target for reducing CFC's and preserving and maintaining the health of the American people.

In the October edition of Insight Magazine, Robert Goldbert, senior research fellow at George Washington Center For Neuroscience, determines that banning MDI's that only account for 1.5 percent of CFC emissions is another cynical exploitation of kids for the sake of environmental correctness.

I do not believe that this proposal is part of a strategy to save the ozone layer. I believe it is a strategy to use children as a political tool for an end that I frankly do not understand. We cannot allow the FDA and the EPA to require children and senior citizens to foot the bill for reductions in CFC's that will do no good, while hurting the most vulnerable.

These actions, if allowed to proceed, will literally rob these children of their childhood and significantly reduce the quality of life of all those dependent on inhalers.

I urge the Presiding Officer and all of my colleagues who may be listening today to join in cosponsorship of what I think is commonsense legislation and that is going to be to the benefit of 30 million Americans including children and the elderly and those who are most vulnerable in our society.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1299

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Asthma Inhaler Regulatory Relief Act''.

SEC. 2. LIMITATION ON AUTHORITY TO BAN METERED-DOSE INHALERS.

Neither the Administrator of the Environmental Protection Agency nor the Commissioner of Food and Drug Administration may prohibit the manufacture, distribution, or sale of metered-dose inhalers that use chlorofluorocarbons unless the Administrator of the Environmental Protection Agency and the Commissioner of the Food and Drug Administration jointly certify to the Congress that alternatives to such inhalers are available that, for all populations of users of such inhalers, are comparable in terms of safety and effectiveness, therapeutic indications, dosage strength, costs, and retail availability.

SEC. 3. MORATORIUM ON FURTHER RULEMAKING.

The Commissioner of the Food and Drug Administration shall withdraw the March 6, 1997, advance notice of proposed rulemaking concerning chlorofluorocarbons in metered-dose inhalers and shall not issue any other proposal until after the 10th Meeting of the Parties to the Montreal Protocol on Substances That Deplete the Ozone Layer. Any subsequent proposal shall be in the form of an advance notice of proposed rulemaking and shall be initiated only after extensive consultations with patients, physicians,

other health care providers, manufacturers of metered-dose inhalers, and other stakeholders.

SEC. 4. DEVELOPMENT OF STRATEGY.

(a) IN GENERAL.—Following the 10th meeting of Parties to the Montreal Protocol on Substances That Deplete the Ozone Layer, but not later than January 30, 1999, the Commissioner of the Food and Drug Administration shall publish a new advance notice of proposed rulemaking, setting forth the initial strategy for facilitating the transition in the United States to metered-dose inhalers that do not use chlorofluorocarbons.

(b) OBLIGATIONS UNDER MONTREAL PROTOCOL.—The initial strategy developed under subsection (a) shall be submitted by the Secretary of State to the Montreal Protocol Secretariat by January 31, 1999, to fulfill United States obligations under the Montreal Protocol decision IX/14.

By Mr. GRAMS (for himself and Ms. MOSELEY-BRAUN):

S. 1300. A bill to provide for the minting and circulation of new $1 coins; to the Committee on Banking, Housing and Urban Affairs.

THE UNITED STATES $1 COIN ACT OF 1997

Mr. GRAMS. Mr. President, today Senator MOSELEY-BRAUN and I are introducing the United States $1 Coin Act of 1997. The bill calls for a newly designated, golden-colored $1 coin to replace the Susan B. Anthony.

Unless this legislation is approved in the near future, the U.S. Mint will begin the process of minting more of the unpopular Susan B. Anthony coins by 1999. The supply of Anthony coins in government inventories fell by a total of 137 million coins in 1995 and 1996. Only 133 million remain as of September 30, 1997. The inventory has been falling at the rate of about 5 million per month because Anthony dollars are used at hundreds of vending locations, in more than a dozen major transit systems, and by the U.S. Postal Service.

Because the U.S. Mint has stated that it needs 30 months to design and fabricate a new $1 coin, the timeframe for a decision by Congress is short.

The current design of the SBA $1 coin is flawed because it has the same color and reeded edge as a quarter. This makes it difficult for consumers to tell the difference between an SBA $1 coin and a quarter.

The United States $1 Coin Act of 1997 will require the Treasury Department to change the color and edge of the SBA $1 coin so that it is different from the quarter. The act will not terminate the $1 bill.

Philip Diehl, Director of the U.S. Mint, stated his support for these reforms in his testimony to the House Subcommittee on Domestic and International Monetary Policy on October 21, 1997:

The U.S. Mint fully supports legislation which would authorize issuance of a new dollar coin with new characteristics at such time as the SBA inventory is exhausted. In addition, immediate passage is critical because the U.S. Mint needs at least 30 months to research and test coin alloys and suitability for use in commerce.

Mr. President, I ask unanimous consent that both a copy of the United States $1 Coin Act of 1997 and a section-by-section summary of its contents to be entered into the RECORD.

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

S. 1300

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

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the ''United States $1 Coin Act of 1997''.

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

SECTION 2. NEW $1 COIN.

(a) WEIGHT.—Section 5112(a) of Title 31, United States Code, is amended by striking, ''and weighs 8.1 grams.''

(b) COLOR AND CONTENT.—Section 5112(b) of title 31, United States Code, is amended—

(1) in the 1st sentence, by striking, ''dollar,''; and

(2) by inserting after the 4th sentence, the following new sentence: ''The dollar coin shall be golden in color, have a distinctive edge, have tactile and visual features that make the denomination of the coin readily discernable, be minted and fabricated in the United States, and have similar metallic, anti-counterfeiting properties as United States clad coinage in circulation on the date of enactment of the United States $1 Coin Act of 1997.''

(c) DESIGN.—Section 5112(d)(1) of title 31, United States Code, is amended by striking out the 5th and 6th sentences and inserting the following new sentence: ''The Secretary of the Treasury, in consultation with Congress, shall select appropriate designs for the obverse and reverse sides of the dollar coin.''.

(d) PRODUCTION OF NEW DOLLAR COINS.—

(1) IN GENERAL.—Upon the depletion of the Government's supply (as of the date of the enactment of this Act) of $1 coins bearing the likeness of Susan B. Anthony, the Secretary of Treasury shall place into circulation $1 coins which comply with the requirements of subsections (b) and (d)(1) of section 5112 of title 31, United States Code, as amended by subsections (b) and (c) of this section. The Secretary may include such $1 coins in any numismatic set produced by the United States Mint before the date on which the $1 coins are placed in circulation.

(2) AUTHORITY OF SECRETARY TO CONTINUE PRODUCTION.—If the supply of $1 coins bearing the likeness of Susan B. Anthony is depleted before production has begun of $1 coins which bear a design which complies with the requirements of subsections (b) and (d)(1) of section 5112 of title 31, United States Code, as amended by subsections (b) and (c) of this section, the Secretary of the Treasury shall continue to mint and issue $1 coins bearing the likeness of Susan B. Anthony in accordance with such section 5112 (as in effect on the day before the date of the enactment of this Act) until such time as production begins.

SECTION 3. MARKETING PROGRAM.

(a) IN GENERAL.—Before placing into circulation $1 coins authorized under section 2 of this Act, the Secretary of the Treasury shall adopt a program to promote the use of such coins by commercial enterprises, mass transit authorities, and local, state and federal government agencies.

(b) STUDY REQUIRED.—The Secretary of the Treasury shall conduct a study on the progress of the marketing program authorized by subsection (a).

(c) REPORT.—No later than March 31, 2001, the Secretary of the Treasury shall submit a report to Congress on the results of the study conducted pursuant to subsection (b).

UNITED STATES $1 COIN ACT OF 1997—SECTION-BY-SECTION ANALYSIS

Section 1. Short Title

The Act is called the ''United States $1 Coin Act of 1997.''

Section 2. New $1 Coin

Subsection 2(a). The new $1 coin will be of a golden color so that consumers can tell the difference between it and a quarter. The 8.1 gram weight restriction for the dollar coin is deleted to take into account the difference in weight caused by the coin being minted from a different alloy. However, the new $1 coin will retain the same 1.043 inches diameter as the old coin.

Subsection 2(b). The current $1 coin has the same color and same reeded edge of a quarter. This subsection authorizes that the new $1 coin be golden in color and have a distinctive (probably smooth) edge. The change in the edge will permit vision impaired consumers to be able to differentiate the $1 coin from a quarter.

Subsection 2(c). This permits the Secretary of the Treasury, in consultation with Congress, to change the design of the dollar coin.

Subsection 2(d)(1). The U.S. Mint estimates that the current supply of old $1 coins will be depleted within 30 months. This subsection requires that upon the depletion of the current supply of old $1 coins, the Treasury Department shall place into circulation the new $1 coins. The Treasury Department is also authorized to sell the new $1 coin as part of a special set for coin collectors prior to date in which the new coins are set to be placed in general circulation.

Subsection 2(d)(2). This requires the Treasury Department to temporarily mint more SBA $1 coins, if the supply of these coins is for some reason depleted prior to the introduction of the new $1 coin. This will assure that commercial enterprises and mass transit authorities will not experience shortages of $1 coins prior to the introduction of the new $1 coin.

Section 3. Marketing Program

This requires the Treasury Department to publicize the issuance of the new $1 coin and promote the use of such $1 coins to commercial enterprises, mass transit authorities and government agencies. It requires the Treasury Department to report on the progress of their promotion efforts no later than March 31, 2001.

By Mr. GRASSLEY (for himself and Mr. DURBIN):

S. 1301. A bill to amend title 11, United States Code, to provide for consumer bankruptcy protection, and for other purposes; to the Committee on the Judiciary.

THE ''CONSUMER BANKRUPTCY REFORM ACT OF 1997''

Mr. GRASSLEY. Mr. President, I rise today to introduce the Consumer Bankruptcy Reform Act of 1997. This bill, which I am introducing with Senator DURBIN, will tighten bankruptcy laws and do much to stem the tide of casual bankruptcies. With bankruptcy filings at all time record highs, it's imperative that Congress enact serious and tough reforms of the consumer bankruptcy chapters.

By far, the most pressing bankruptcy policy question facing America today relates to the explosion of consumer bankruptcies. Last April, I chaired a hearing on the crisis in consumer bankruptcies. While there's not much agreement about the root causes of the

rise in consumer bankruptcies, it's obvious that Congress needs to do something now—before the economy takes a downturn—to reverse this trend. At the present time, the economy is doing well and unemployment is low. Inflation is under control.

But we know there are always potholes on the road to economic prosperity. And we know that when the economy declines, bankruptcies increase. With so many bankruptcies now, when times are good, I shudder to think of the strains we will face if we hit a recession. Clearly, Congress needs to act while the economy is still in good shape.

The Consumer Bankruptcy Reform Act will discourage casual bankruptcies by sending a clear signal that you can't file for bankruptcy and walk away from your debts if you have the ability to re-pay some portion of those debts. This is a simple and straightforward idea whose time has come. According to my research, Congress considered reserving bankruptcy relief for only those Americans who can't re-pay their debts as far back as 1932. So, what we're proposing is not based on some unprecedented concept, but instead has a long and distinguished history.

The bill I'm introducing today amends section 707(b) of the bankruptcy code to permit bankruptcy judges to transfer debtors to chapter 13, or dismiss a case outright, if the debtor could re-pay 20 percent or more of their nonpriority unsecured debts. And the bill changes current law to let creditors bring motions to bankruptcy judges to have debtors moved to chapter 13 or have their cases dismissed. This means that creditors can be the masters of their own destiny. The bankruptcy code should not prevent creditors from even presenting evidence that debtors who could repay their debts are abusing the bankruptcy code and walking away scott-free.

The bill also allows private chapter 7 trustees to bring motions under the new section 707(b). And if they win on their motion, and the debtor is either dismissed or transferred to chapter 13, the private trustee will be reimbursed for attorney's fees. As an added incentive for the private trustees, if they win on a section 707(b) motion, the court can order the debtor's attorney fined and make that fine payable to the trustee. Thus, there will be a army of trustees looking for debtors who shouldn't be in bankruptcy. This will cause people to think twice before rushing to declare bankruptcy. And that's a very positive reform.

However, in order to forge a bipartisan compromise, the bill doesn't make ability to repay the only factor in determining whether to transfer or dismiss a case. Instead, each debtor's individual circumstances will be examined. In this way, our bill avoids the injustice which can accompany a crude formula with practically no exceptions.

I'm also very aware that there have been abuses by creditors using harsh and abusive tactics to collect debts from people who have declared bankruptcy. So, the Consumer Bankruptcy Reform Act contains an entire title—title II—dedicated to enhancing consumer protections by requiring judges to impose stiff penalties for abusive conduct and frivolous court filings. As a strong supporter of rule 11 reform, I believe that Congress should crack down on groundless court filings which some creditors have used to harass and intimidate debtors.

I also believe that the Grassley-Durbin bill will encourage alternative dispute resolution and out-of-court settlements under the new section 707(b), if a creditor refuses to attempt ADR, then a debtor who could otherwise be transferred from chapter 7 to chapter 13 can raise this noncooperation as a defense. This will encourage creditors to negotiate out-of-court settlements. And that will save court time and resources—a goal which I am strongly committed to. I think that bringing Bureau of Labor statistics numbers into the bankruptcy code for the first time, as the House bill does, is unprecedented and will breed new and costly litigation. The Grassley-Durbin bill avoids this problem by relying on time-tested bankruptcy provisions to identify chapter 7 filers who really need to be in chapter 13 or out of the bankruptcy system altogether.

This bill is fair and balanced and will implement needed changes efficiently and without the uncertainty and new litigation associated with statistical formulas which are completely foreign to the bankruptcy code. It will crack down on bankruptcy abuses on both sides of the equation. And it will tell those who don't want to take personal responsibility for their debts that the free-ride is over.

Finally, the bill also strikes the cap on single asset real estate, a goal which I have long supported. I'm very grateful to Senator DURBIN for working with me on this matter, since it really is so important to the health of the commercial banking industry.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1301

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Consumer Bankruptcy Reform Act of 1997''.

TITLE I—NEEDS BASED BANKRUPTCY

SEC. 101. CONVERSION.

Section 706(c) of title 11, United States Code, is amended by striking ''13''.

SEC. 102. DISMISSAL OR CONVERSION.

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

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

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

and

(2) in subsection (b)—

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

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

(i) in the first sentence—

(I) by striking '', but not at the request or suggestion of a party in interest,'';

(II) by inserting '', or, with the debtor's consent, convert such a case to a case under chapter 13 of this title,'' after ''consumer debts''; and

(III) by striking ''substantial abuse'' and inserting ''abuse''; and

(ii) by striking the last sentence and inserting the following:

''(2) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall consider whether—

''(A) under section 1325(b)(1) of this title, on the basis of the current income of the debtor, the debtor could pay an amount greater than or equal to 20 percent of unsecured claims that are not considered to be priority claims (as determined under subchapter I of chapter 5 of this title);

''(B) the debtor filed a petition for the relief in bad faith; and

''(C)(i) the debtor made good-faith efforts, before the filing of the petition, to negotiate an alternative repayment schedule or to use alternative methods of dispute resolution; and

''(ii) if the debtor made efforts described in clause (i), the creditors of that debtor unreasonably refused to engage in the alternative methods of dispute resolution or to negotiate an alternative repayment schedule.

''(3)(A) If a panel trustee appointed under section 586(a)(1) of title 28 brings a motion for dismissal or conversion under this subsection and the court grants that motion, the court shall order the counsel for the debtor, if the debtor is represented by counsel, to reimburse the trustee for all reasonable costs in prosecuting the motion, including reasonable attorneys' fees.

''(B) If the court finds that the attorney for the debtor violated Rule 9011, at a minimum, the court shall order—

''(i) the assessment of an appropriate civil penalty against the counsel for the debtor; and

''(ii) the payment of the civil penalty to the panel trustee or the United States trustee.

''(C) In the case of a petition referred to in subparagraph (B), the signature of an attorney shall constitute a certificate that the attorney has—

''(i) performed a reasonable investigation into the circumstances that gave rise to the petition; and

''(ii) determined that the petition—

''(I) is well grounded in fact; and

''(II) is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and does not constitute an abuse under paragraph (1) of this subsection.

''(4) The court shall award a debtor all reasonable costs in contesting a motion brought by a party in interest under this subsection (including reasonable attorneys' fees and actual damages in an amount not less than $5,000) if—

''(A) the court does not grant the motion; and

''(B) the court finds that—

''(i) the position of the party that brought the motion was not substantially justified; or

''(ii) the party brought the motion solely for the purpose of coercing a debtor into waiving a right guaranteed to the debtor under this title.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of title

11, United States Code, is amended by striking the item relating to section 707 and inserting the following:

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

TITLE II—ENHANCED PROCEDURAL PROTECTIONS FOR CONSUMERS

SEC. 201. ALLOWANCE OF CLAIMS OR INTERESTS.

Section 502 of title 11, United States Code, is amended by adding at the end the following:

''(k)(1) The court shall award the debtor reasonable attorneys' fees and costs if, after an objection is filed by a debtor, the court—

''(A) disallows the claim; or

''(B) reduces the claim by an amount greater than 5 percent of the amount of the initial claim filed by a party in interest.

''(2) If the court finds that the position of a claimant under this section is not substantially justified, the court shall, in addition to awarding a debtor reasonable attorneys' fees and costs under paragraph (1), award additional punitive damages in the amount of $5,000.''.

SEC. 202. EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, is amended to read as follows:

''(d)(1) If a creditor requests a determination of dischargeability of a consumer debt under this section and that debt is discharged, the court shall award the debtor reasonable attorneys' fees and costs.

''(2) In addition to making an award to a debtor under paragraph (1), if the court finds that the position of a creditor in a proceeding covered under this section is not substantially justified, the court shall, in addition to making an award of reasonable attorneys' fees and costs under paragraph (1), award an amount equal to the greater of—

''(A)(i) the amount of actual damages; multiplied by

''(ii) 3; or

''(B) $5,000.''.

SEC. 203. EFFECT OF DISCHARGE.

Section 524 of title 11, United States Code, is amended by adding at the end the following:

''(i) The failure of a creditor to credit payments received under a plan confirmed under this title (including a plan of reorganization confirmed under chapter 11 of this title) in the manner required by the plan (including crediting the amounts required under the plan) shall constitute a violation of an injunction under subsection (a)(2).

''(j)(1) Except as provided in paragraph (2), a creditor may not charge a debtor, or the account of a debtor, for attorneys' fees or costs for work performed in connection with a case brought under this title.

''(2) Any charge made by a creditor in violation of this subsection shall constitute a violation of an injunction under subsection (a)(2).

''(k) An individual who is injured by the failure of a creditor to comply with the requirements for a reaffirmation agreement under subsections (c) and (d), or by any willful violation of the injunction under subsection (a)(2), shall be entitled to recover—

''(1) the greater of—

''(A)(i) the amount of actual damages; multiplied by

''(ii) 3; or

''(B) $5,000; and

''(2) costs and attorneys' fees.''.

SEC. 204. AUTOMATIC STAY.

Section 362(h) of title 11, United States Code, is amended to read as follows:

''(h)(1) An individual who is injured by any willful violation of a stay provided in this section shall be entitled to recover—

''(A) the greater of—

''(i)(I) the amount of actual damages; multiplied by

''(II) 3; or

''(ii) $5,000; and

''(B) costs and attorneys' fees.

''(2) In addition to recovering actual damages, costs, and attorneys' fees under paragraph (1), an individual described in paragraph (1) may recover punitive damages in appropriate circumstances.''.

SEC. 205. WHO MAY BE A DEBTOR.

Section 727 of title 11, United States Code, is amended by adding at the end the following:

''(f)(1) In any case in which a creditor files a motion to deny relief to a debtor under this section and that motion is denied or withdrawn, the court shall award the debtor reasonable attorneys' fees and costs.

''(2) If the court finds that the position of a party filing a motion under this section is not substantially justified, the court shall assess against the creditor for payment to the debtor a payment in an amount equal to the greater of—

''(A)(i) the amount of actual damages; multiplied by

''(ii) 3; or

''(B) $5,000.''.

TITLE III—IMPROVED PROCEDURES FOR EFFICIENT ADMINISTRATION OF THE BANKRUPTCY SYSTEM

SEC. 301. NOTICE OF ALTERNATIVES.

(a) IN GENERAL.—Section 342 of title 11, United States Code, is amended by striking subsection (b) and inserting the following:

''(b) Before the commencement of a case under this title by an individual whose debts are primarily consumer debts, that individual shall be given or obtain (as required in section 521(a)(1), as part of the certification process under subchapter 1 of chapter 5 of this title) a written notice prescribed by the United States trustee for the district in which the petition is filed pursuant to section 586 of title 28. The notice shall contain the following:

''(1) A brief description of chapters 7, 11, 12, and 13 of this title and the general purpose, benefits, and costs of proceeding under each of those chapters.

''(2) A brief description of services that may be available to that individual from an independent nonprofit debt counseling service.

''(3)(A) The name, address, and telephone number of each nonprofit debt counseling service with an office located in the district in which the petition is filed, if any.

''(B) Any nonprofit debt counseling service described in subparagraph (A) that has registered with the clerk of the bankruptcy court on or before December 10 of the preceding year shall be included in the list referred to in that clause, unless the chief bankruptcy judge of the district involved, after giving notice to the debt counseling service and the United States trustee and opportunity for a hearing, orders, for good cause, that a particular debt counseling service shall not be so listed.''; and

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, is amended—

(1) by inserting ''(a)'' before ''The debtor shall—'';

(2) by striking paragraph (1) and inserting the following:

''(1) file—

''(A) a list of creditors; and

''(B) unless the court orders otherwise—

''(i) a schedule of assets and liabilities;

''(ii) a schedule of current income and current expenditures;

''(iii) a statement of the debtor's financial affairs and, if applicable, a certificate—

''(I) of an attorney whose name is on the petition as the attorney for the debtor or any bankruptcy petition preparer signing the petition pursuant to section 110(b)(1) of this title indicating that such attorney or bankruptcy petition preparer delivered to the debtor any notice required by section 342(b) of this title; or

''(II) if no attorney for the debtor is indicated and no bankruptcy petition preparer signed the petition, of the debtor that such notice was obtained and read by the debtor;

''(iv) copies of any Federal tax returns, including any schedules or attachments, filed by the debtor for the 3-year period preceding the order for relief;

''(v) copies of all payment advices or other evidence of payment, if any, received by the debtor from any employer of the debtor in the period 60 days prior to the filing of the petition;

''(vi) a statement of the amount of projected monthly net income, itemized to show how calculated;

''(vii) if applicable, any statement under paragraphs (3) and (4) of section 109(h); and

''(viii) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of filing;''; and

(3) by adding at the end the following:

''(b)(1) At any time, a creditor, in the case of an individual under chapter 7 or 13, may file with the court notice that the creditor requests the petition, schedules, and a statement of affairs filed by the debtor in the case and the court shall make those documents available to the creditor who requests those documents.

''(2) At any time, a creditor, in a case under chapter 13, may file with the court notice that the creditor requests the plan filed by the debtor in the case and the court shall make that plan available to the creditor who requests that plan.

''(c) An individual debtor in a case under chapter 7 or 13 shall file with the court—

''(1) at the time filed with the taxing authority, all tax returns, including any schedules or attachments, with respect to the period from the commencement of the case until such time as the case is closed;

''(2) at the time filed with the taxing authority, all tax returns, including any schedules or attachments, that were not filed with the taxing authority when the schedules under subsection (a)(1) were filed with respect to the period that is 3 years before the order for relief;

''(3) any amendments to any of the tax returns, including schedules or attachments, described in paragraph (1) or (2); and

''(4) in a case under chapter 13, a statement subject to the penalties of perjury by the debtor of the debtor's income and expenditures in the preceding tax year and monthly income, that shows how the amounts are calculated—

''(A) beginning on the date that is the later of 90 days after the close of the debtor's tax year or 1 year after the order for relief, unless a plan has been confirmed; and

''(B) thereafter on or before the date that is 45 days before each anniversary of the confirmation of the plan until the case is closed.

''(d)(1) A statement referred to in subsection (c)(4) shall disclose—

''(A) the amount and sources of income of the debtor;

''(B) the identity of any persons responsible with the debtor for the support of any dependents of the debtor; and

''(C) any persons who contributed and the amount contributed to the household in which the debtor resides.

''(2) The tax returns, amendments, and statement of income and expenditures described in paragraph (1) shall be available to the United States trustee, any bankruptcy administrator, any trustee, and any party in interest for inspection and copying.''.

(c) TITLE 28.—Section 586(a) of title 28, United States Code, is amended—

(1) in paragraph (5) by striking ''and'' at the end;

(2) in paragraph (6) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(7) on or before January 1 of each calendar year, and also not later than 30 days after any change in the nonprofit debt counseling services registered with the bankruptcy court, prescribe and make available on request the notice described in section 342(b)(3) of title 11 for each district included in the region.''.

SEC. 302. FAIR TREATMENT OF SECURED CREDITORS UNDER CHAPTER 13.

Section 1325(a)(5)(B)(i) of title 11, United States Code, is amended to read as follows:

''(B)(i) the plan provides that the holder of such claim retain the lien securing such claim until the debt that is the subject of the claim is fully paid for, as provided under the plan; and''.

SEC. 303. DISCOURAGEMENT OF BAD FAITH REPEAT FILINGS.

Section 362 of title 11, United States Code, is amended—

(1) in subsection (c)—

(A) by inserting ''(1)'' before ''Except as'';

(B) by striking ''(1) the stay'' and inserting ''(A) the stay'';

(C) by striking ''(2) the stay'' and inserting ''(B) the stay'';

(D) by striking ''(A) the time'' and inserting ''(i) the time''; and

(E) by striking ''(B) the time'' and inserting ''(ii) the time''; and

(2) by adding at the end the following:

''(2) Except as provided in subsections (d) through (f), the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case if—

''(A) a single or joint case is filed by or against an individual debtor under chapter 7, 11, or 13; and

''(B) a single or joint case of that debtor (other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b) of this title) was pending during the preceding year but was dismissed.

''(3) If a party in interest so requests, the court may extend the stay in a particular case with respect to 1 or more creditors (subject to such conditions or limitations as the court may impose) after providing notice and a hearing completed before the expiration of the 30-day period described in paragraph (2) only if the party in interest demonstrates that the filing of the later case is in good faith with respect to the creditors to be stayed.

''(4) A case shall be presumed to have not been filed in good faith (except that such presumption may be rebutted by clear and convincing evidence to the contrary)—

''(A) with respect to the creditors involved, if—

''(i) more than 1 previous case under any of chapters 7, 11, or 13 of this title in which the individual was a debtor was pending during the 1-year period described in paragraph (1);

''(ii) a previous case under any of chapters 7, 11, or 13 of this title in which the individual was a debtor was dismissed within the period specified in paragraph (2) after—

''(I) the debtor, after having received from the court a request to do so, failed to file or amend the petition or other documents as required by this title; or

''(II) the debtor, without substantial excuse, failed to perform the terms of a plan that was confirmed by the court; or

''(iii)(I) during the period commencing with the dismissal of the next most previous case under chapter 7, 11, or 13 there has not been a substantial change in the financial or personal affairs of the debtor;

''(II) if the case is a chapter 7 case, there is no other reason to conclude that the later case will be concluded with a discharge; or

''(III) if the case is a chapter 11 or 13 case, there is not a confirmed plan that will be fully performed; and

''(B) with respect to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor, if, as of the date of dismissal of that case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay with respect to actions of that creditor.

''(5)(A) If a request is made for relief from the stay under subsection (a) with respect to real or personal property of any kind, and the request is granted in whole or in part, the court may, in addition to making any other order under this subsection, order that the relief so granted shall be in rem either—

''(i) for a definite period of not less than 1 year; or

''(ii) indefinitely.

''(B)(i) After an order is issued under subparagraph (A), the stay under subsection (a) shall not apply to any property subject to such an in rem order in any case of the debtor.

''(ii) If an in rem order issued under subparagraph (A) so provides, the stay shall, in addition to being inapplicable to the debtor involved, not apply with respect to an entity under this title if—

''(I) the entity had reason to know of the order at the time that the entity obtained an interest in the property affected; or

''(II) the entity was notified of the commencement of the proceeding for relief from the stay, and at the time of the notification, no case in which the entity was a debtor was pending.

''(6) For purposes of this section, a case is pending during the period beginning with the issuance of the order for relief and ending at such time as the case involved is closed.''.

SEC. 304. TIMELY FILING AND CONFIRMATION OF PLANS UNDER CHAPTER 13.

(a) FILING OF PLAN.—Section 1321 of title 11, United States Code, is amended to read as follows:

''§ 1321. Filing of plan

''The debtor shall file a plan not later than 90 days after the order for relief under this chapter, except that the court may extend such period if the need for an extension is attributable to circumstances for which the debtor should not justly be held accountable.''.

(b) CONFIRMATION OF HEARING.—Section 1324 of title 11, United States Code, is amended by adding at the end the following: ''That hearing shall be held not later than 45 days after the filing of the plan, unless the court, after providing notice and a hearing, orders otherwise.''.

SEC. 305. APPLICATION OF THE CODEBTOR STAY ONLY WHEN THE STAY PROTECTS THE DEBTOR.

Section 1301(b) of title 11, United States Code, is amended—

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

(2) by adding at the end the following:

''(2)(A) Notwithstanding subsection (c) and except as provided in subparagraph (B), in any case in which the debtor did not receive the consideration for the claim held by a creditor, the stay provided by subsection (a) shall apply to that creditor for a period not to exceed 30 days beginning on the date of the order for relief, to the extent the creditor proceeds against—

''(i) the individual that received that consideration; or

''(ii) property not in the possession of the debtor that secures that claim.

''(B) In any case described in subparagraph (A), a creditor may not proceed against an individual described in subparagraph (A)(i) or property described in subparagraph (A)(ii), if the debtor who did not receive consideration for the property that is the subject of the claim is able to demonstrate that the receipt of the property was not part of a scheme to defraud or hinder any creditor.

''(3) Notwithstanding subsection (c), the stay provided by subsection (a) shall terminate as of the date of confirmation of the plan, in any case in which the plan of the debtor provides that the debtor's interest in personal property subject to a lease with respect to which the debtor is the lessee will be surrendered or abandoned or no payments will be made under the plan on account of the debtor's obligations under the lease.''.

SEC. 307. IMPROVED BANKRUPTCY STATISTICS.

(a) AMENDMENT.—Chapter 6 of part I of title 28, United States Code, is amended by adding at the end the following:

''§ 159. Bankruptcy statistics

''(a) The clerk of each district shall compile statistics regarding individual debtors with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be in a form prescribed by the Director of the Administrative Office of the United States Courts (referred to in this section as the 'Office').

''(b) The Director shall—

''(1) compile the statistics referred to in subsection (a);

''(2) make the statistics available to the public; and

''(3) not later than October 31, 1998, and annually thereafter, prepare, and submit to Congress a report concerning the information collected under subsection (a) that contains an analysis of the information.

''(c) The compilation required under subsection (b) shall—

''(1) be itemized, by chapter, with respect to title 11;

''(2) be presented in the aggregate and for each district; and

''(3) include information concerning—

''(A) the total assets and total liabilities of the debtors described in subsection (a), and in each category of assets and liabilities, as reported in the schedules prescribed pursuant to section 2075 of this title and filed by those debtors;

''(B) the current total monthly income, projected monthly net income, and average income and average expenses of those debtors as reported on the schedules and statements that each such debtor files under sections 111, 521, and 1322 of title 11;

''(C) the aggregate amount of debt discharged in the reporting period, determined as the difference between the total amount of debt and obligations of a debtor reported on the schedules and the amount of such debt reported in categories which are predominantly nondischargeable;

''(D) the average period of time between the filing of the petition and the closing of the case;

''(E) for the reporting period—

''(i) the number of cases in which a reaffirmation was filed; and

''(ii)(I) the total number of reaffirmations filed;

''(II) of those cases in which a reaffirmation was filed, the number in which the debtor was not represented by an attorney; and

''(III) of those cases, the number of cases in which the reaffirmation was approved by the court;

''(F) with respect to cases filed under chapter 13 of title 11, for the reporting period—

''(i)(I) the number of cases in which a final order was entered determining the value of property securing a claim in an amount less than the amount of the claim; and

''(II) the number of final orders determining the value of property securing a claim issued;

''(ii) the number of cases dismissed for failure to make payments under the plan; and

''(iii) the number of cases in which the debtor filed another case within the 6 years previous to the filing; and

''(G) the extent of creditor misconduct and any amount of punitive damages awarded by the court for creditor misconduct.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 6 of title 28, United States Code, is amended by adding at the end the following:

''159. Bankruptcy statistics.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 308. AUDIT PROCEDURES.

(a) AMENDMENT.—Section 586 of title 28, United States Code, is amended—

(1) in subsection (a), as amended by section 301 of this Act, by striking paragraph (6) and inserting the following:

''(6) make such reports as the Attorney General directs, including the results of audits performed under subsection (f); and''; and

(2) by adding at the end the following:

''(f)(1)(A) The Attorney General shall establish procedures for the auditing of the accuracy and completeness of petitions, schedules, and other information which the debtor is required to provide under sections 521 and 1322 of title 11, and, if applicable, section 111 of title 11, in individual cases filed under chapter 7 or 13 of such title.

''(B) The audits described in subparagraph (A) shall be made in accordance with generally accepted auditing standards and performed by independent certified public accountants or independent licensed public accountants. Those procedures shall—

''(i) establish a method of selecting appropriate qualified persons to contract with the United States trustee to perform those audits;

''(ii) establish a method of randomly selecting cases to be audited according to generally accepted auditing standards, except that not less than 1 out of every 50 cases in each Federal judicial district shall be selected for audit;

''(iii) require audits 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; and

''(iv) establish procedures for—

''(I) reporting the results of those audits and any material misstatement of income, expenditures, or assets of a debtor to the Attorney General, the United States Attorney and the court, as appropriate;

''(II) providing, not less frequently than annually, public information concerning the aggregate results of such audits including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported; and

''(III) fully funding those audits, including procedures requiring each debtor with sufficient available income or assets to contribute to the payment for those audits, as an administrative expense or otherwise.

''(2) The United States trustee for each district is authorized to contract with auditors to perform audits in cases designated by the United States trustee according to the procedures established under paragraph (1) of this subsection.

''(3) According to procedures established under paragraph (1), upon request of a duly appointed auditor, the debtor shall cause the accounts, papers, documents, financial records, files and all other papers, things, or property belonging to the debtor as the auditor requests and that are reasonably necessary to facilitate the audit to be made available for inspection and copying.

''(4)(A) The report of each audit conducted under this subsection shall be filed with the court, the Attorney General, and the United States Attorney, as required under procedures established by the Attorney General under paragraph (1).

''(B) If a material misstatement of income or expenditures or of assets is reported under subparagraph (A), a statement specifying that misstatement shall be filed with the court and the United States trustee shall—

''(i) give notice thereof to the creditors in the case; and

''(ii) in an appropriate case, in the opinion of the United States trustee, that requires investigation with respect to possible criminal violations, the United States Attorney for the district.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 309. CREDITOR REPRESENTATION AT FIRST MEETING OF CREDITORS.

Section 341(c) of title 11, United States Code, is amended by inserting after the first sentence the following: ''Notwithstanding any local court rule, provision of a State constitution, any other Federal or State law that is not a bankruptcy law, or other requirement that representation at the meeting of creditors under subsection (a) be by an attorney, a creditor holding a consumer debt or any representative of the creditor (which may include an entity or an employee of an entity and may be a representative for more than one creditor) shall be permitted to appear at and participate in the meeting of creditors in a case under chapter 7 or 13, either alone or in conjunction with an attorney for the creditor. Nothing in this subsection shall be construed to require any creditor to be represented by an attorney at any meeting of creditors.''.

SEC. 310. FAIR NOTICE FOR CREDITORS IN CHAPTER 7 AND 13 CASES.

Section 342 of title 11, United States Code, is amended—

(1) in subsection (c)—

(A) by striking '', but the failure of such notice to contain such information shall not invalidate the legal effect of such notice''; and

(B) by adding at the end the following:

''(d)(1) If the credit agreement between the debtor and the creditor or the last communication before the filing of the petition in a voluntary case from the creditor to a debtor who is an individual states an account number of the debtor that is the current account number of the debtor with respect to any debt held by the creditor against the debtor, the debtor shall include that account number in any notice to the creditor required to be given under this title.

''(2) If the creditor has specified to the debtor, in the last communication before the filing of the petition, an address at which the creditor wishes to receive correspondence regarding the debtor's account, any notice to the creditor required to be given by the debtor under this title shall be given at such address.

''(3) For purposes of this section, the term 'notice' shall include—

''(A) any correspondence from the debtor to the creditor after the commencement of the case;

''(B) any statement of the debtor's intention under section 521(a)(2) of this title;

''(C) notice of the commencement of any proceeding in the case to which the creditor is a party; and

''(D) any notice of a hearing under section 1324 of this title.

''(e)(1) At any time, a creditor, in a case of an individual under chapter 7 or 13, may file with the court and serve on the debtor a notice of the address to be used to notify the creditor in that case.

''(2) If the court or the debtor is required to give the creditor notice, 5 days after receipt of the notice under paragraph (1), that notice shall be given at that address.

''(f) An entity may file with the court a notice stating its address for notice in cases under chapter 7 or 13. After the date that is 30 days following the filing of that notice, any notice in any case filed under chapter 7 or 13 given by the court shall be to that address unless specific notice is given under subsection (e) with respect to a particular case.

''(g)(1) Notice given to a creditor other than as provided in this section shall not be effective notice until that notice has been brought to the attention of the creditor.

''(2) If the creditor has designated a person or department to be responsible for receiving notices concerning bankruptcy cases and has established reasonable procedures so that bankruptcy notices received by the creditor will be delivered to that department or person, notice shall not be brought to the attention of the creditor until that notice is received by that person or department.''.

SEC. 311. STOPPING ABUSIVE CONVERSIONS FROM CHAPTER 13.

Section 348(f)(1) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking ''and'' at the end;

(2) in subparagraph (B)—

(A) by striking ''in the converted case, with allowed secured claims'' and inserting ''only in a case converted to chapter 11 or 12 but not in a case converted to chapter 7, with allowed secured claims in cases under chapters 11 and 12''; and

(B) by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(C) with respect to cases converted from chapter 13, the claim of any creditor holding security as of the date of the petition shall continue to be secured by that security unless the full amount of that claim determined under applicable nonbankruptcy law has been paid in full as of the date of conversion, notwithstanding any valuation or determination of the amount of an allowed secured claim made for the purposes of the chapter 13 proceeding.''.

SEC. 312. PROMPT RELIEF FROM STAY IN INDIVIDUAL CASES.

Section 362(e) of title 11, United States Code, is amended—

(1) by inserting ''(1)'' after ''(e); and

(2) by adding at the end the following:

''(2) Notwithstanding paragraph (1), in the case of an individual filing under chapter 7, 11, or 13, the stay under subsection (a) shall terminate on the date that is 60 days after a request is made by a party in interest under subsection (d), unless—

''(A) a final decision is rendered by the court during the 60-day period beginning on the date of the request; or

''(B) that 60-day period is extended—

''(i) by agreement of all parties in interest; or

''(ii) by the court for such specific period of time as the court finds is required for good cause.''.

SEC. 313. DISMISSAL FOR FAILURE TO FILE SCHEDULES TIMELY OR PROVIDE REQUIRED INFORMATION.

Section 707 of title 11, United States Code, as amended by section 102 of this Act, is further amended by adding at the end the following:

''(c)(1) Notwithstanding subsection (a), and subject to paragraph (2), if an individual debtor in a voluntary case under chapter 7 or 13 fails to file all of the information required under section 521(a)(1) of this title within 45 days after the filing of the petition commencing the case, the case shall be automatically dismissed effective on the 46th day after the filing of the petition.

''(2) With respect to a case described in paragraph (1), any party in interest may request the court to enter an order dismissing the case. The court shall, if so requested, enter an order of dismissal not later than 5 days after that request.

''(3) Upon request of the debtor made within 45 days after the filing of the petition commencing a case described in paragraph (1), the court may allow the debtor an additional period of not to exceed 20 days to file the information required under section 521(a)(1) of this title if the court finds justification for extending the period for the filing.''.

SEC. 314. ADEQUATE TIME FOR PREPARATION FOR A HEARING ON CONFIRMATION OF THE PLAN.

Section 1324 of title 11, United States Code, is amended—

(1) by striking ''After'' and inserting the following:

''(a) Except as provided in subsection (b) and after''; and

(2) by adding at the end the following:

''(b) If not later than 5 days after receiving notice of a hearing on confirmation of the plan, a creditor objects to the confirmation of the plan, the hearing on confirmation of the plan may be held no earlier than 20 days after the first meeting of creditors under section 341(a) of this title.''.

TITLE IV—TECHNICAL CORRECTIONS

SEC. 401. DEFINITIONS.

Section 101 of title 11, United States Code, is amended—

(1) by striking ''In this title—'' and inserting ''In this title:'';

(2) in each paragraph, by inserting ''The term'' after the paragraph designation;

(3) in paragraph (35)(B), by striking ''paragraphs (21B) and (33)(A)'' and inserting ''paragraphs (23) and (35)'';

(4) in each of paragraphs (35A) and (38), by striking ''; and'' at the end and inserting a period;

(5) in paragraph (51B)—

(A) by inserting ''who is not a family farmer'' after ''debtor'' the first place it appears; and

(B) by striking ''thereto having aggregate'' and all that follows through the end of the paragraph;

(6) by amending paragraph (54) to read as follows:

''(54) The term 'transfer' means—

''(A) the creation of a lien;

''(B) the retention of title as a security interest;

''(C) the foreclosure of a debtor's equity of redemption; or

''(D) each mode, direct or indirect absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property;'';

(7) in each of paragraphs (1) through (35), in each of paragraphs (36) and (37), and in each of paragraphs (40) through (55) (including paragraph (54), as added by paragraph (6) of this section), by striking the semicolon at the end and inserting a period; and

(8) by redesignating paragraphs (4) through (55) in entirely numerical sequence, so as to result in numerical paragraph designations of (4) through (68).

SEC. 402. ADJUSTMENT OF DOLLAR AMOUNTS.

Section 104 of title 11, United States Code, is amended by inserting ''522(f)(3),'' after ''522(d),'' each place it appears.

SEC. 403. EXTENSION OF TIME.

Section 108(c)(2) of title 11, United States Code, is amended by striking ''922'' and all that follows through ''or'', and inserting ''922, 1201, or''.

SEC. 404. WHO MAY BE A DEBTOR.

Section 109(b)(2) of title 11, United States Code, is amended by striking ''subsection (c) or (d) of''.

SEC. 405. PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.

Section 110(j)(3) of title 11, United States Code, is amended by striking ''attorney's'' and inserting ''attorneys' ''.

SEC. 406. LIMITATION ON COMPENSATION OF PROFESSIONAL PERSONS.

Section 328(a) of title 11, United States Code, is amended by inserting ''on a fixed or percentage fee basis,'' after ''hourly basis,''.

SEC. 407. SPECIAL TAX PROVISIONS.

Section 346(g)(1)(C) of title 11, United States Code, is amended by striking '', except'' and all that follows through ''1986''.

SEC. 408. EFFECT OF CONVERSION.

Section 348(f)(2) of title 11, United States Code, is amended by inserting ''of the estate'' after ''property'' the first place it appears.

SEC. 409. AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, is amended—

(1) in paragraph (17), by striking ''or'' at the end;

(2) in paragraph (18), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(19) under subsection (a) of this section of any transfer that is not avoidable under section 544 and that is not avoidable under section 549.''.

SEC. 410. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.

Section 365 of title 11, United States Code, is amended—

(1) in subsection (b)(2)—

(A) in subparagraph (C), by striking ''or'' at the end; and

(B) by striking subparagraph (D) and inserting the following:

''(D) the satisfaction of any penalty rate or penalty provision relating to a default arising from a failure to perform nonmonetary obligations under an executory contract or under an unexpired lease of real or personal property;

''(E) the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an unexpired lease of real property, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption; or

''(F) the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an executory contract, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption and if the court determines, based on the equities of the case, that paragraph (1) should not apply with respect to such default.'';

(2) in subsection (c)—

(A) in paragraph (2), by adding ''or'' at the end;

(B) in paragraph (3), by striking ''or'' at the end and inserting a period; and

(C) by striking paragraph (4);

(3) in subsection (d)—

(A) by striking paragraphs (5) through (9); and

(B) by redesignating paragraph (10) as paragraph (5); and

(4) in subsection (f)(1), by striking ''; except that'' and all that follows through the end of the paragraph and inserting a period.

SEC. 411. AMENDMENT TO TABLE OF SECTIONS.

The table of sections for chapter 5 of title 11, United States Code, is amended by striking the item relating to section 556 and inserting the following:

''556. Contractual right to liquidate a commodities contract or forward contract.''.

SEC. 412. ALLOWANCE OF ADMINISTRATIVE EXPENSES.

Section 503(b)(4) of title 11, United States Code, is amended by inserting ''subparagraph (A), (B), (C), (D), or (E) of'' before ''paragraph (3)''.

SEC. 413. PRIORITIES.

Section 507(a) of title 11, United States Code, is amended—

(1) in paragraph (3)(B), by striking the semicolon at the end and inserting a period; and

(2) in paragraph (7), by inserting ''unsecured'' after ''allowed''.

SEC. 414. EXEMPTIONS.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (f)(1)(A)(ii)(II)—

(A) by striking ''includes a liability designated as'' and inserting ''is for a liability that is designated as, and is actually in the nature of,''; and

(B) by striking '', unless'' and all that follows through ''support,''; and

(2) in subsection (g)(2), by striking ''subsection (f)(2)'' and inserting ''subsection (f)(1)(B)''.

SEC. 415. EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, is amended—

(1) in subsection (a)(3), by striking ''or (6)'' each place it appears and inserting ''(6), or (15)'';

(2) as amended by section 304(e) of Public Law 103–394 (108 Stat. 4133), in paragraph (15)—

(A) by inserting ''or'' after the semicolon at the end; and

(B) by transferring such paragraph so as to insert it after paragraph (14) of subsection (a);

(3) in paragraph (9), by inserting '', watercraft, or aircraft'' after ''motor vehicle'';

(4) in subsection (a)(15), as so redesignated by paragraph (2) of this subsection, by inserting ''to a spouse, former spouse, or child of the debtor and'' after ''(15)'';

(5) in subsection (a)(17)—

(A) by striking ''by a court'' and inserting ''on a prisoner by any court'';

(B) by striking ''section 1915 (b) or (f)'' and inserting ''subsection (b) or (f)(2) of section 1915''; and

(C) by inserting ''(or a similar non-Federal law)'' after ''title 28'' each place it appears; and

(6) in subsection (e), by striking ''a insured'' and inserting ''an insured''.

SEC. 416. EFFECT OF DISCHARGE.

Section 524(a)(3) of title 11, United States Code, is amended by striking ''section 523'' and all that follows through ''or that'' and inserting ''section 523, 1228(a)(1), or 1328(a)(1) of this title, or that''.

SEC. 417. PROTECTION AGAINST DISCRIMINATORY TREATMENT.

Section 525(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by inserting ''student'' before ''grant'' the second place it appears; and

(2) in paragraph (2), by striking ''the program operated under part B, D, or E of'' and inserting ''any program operated under''.

SEC. 418. PROPERTY OF THE ESTATE.

Section 541(b) of title 11, United States Code, is amended—

(1) in paragraph (4)—

(A) in subparagraph (B)(ii), by inserting ''365 or'' before ''542''; and

(B) by adding ''or'' at the end.

SEC. 419. LIMITATIONS ON AVOIDING POWERS.

Section 546 of title 11, United States Code, is amended by redesignating the second subsection (g) (as added by section 222(a) of the Bankruptcy Reform Act of 1994; 108 Stat. 4129) as subsection (h).

SEC. 420. PREFERENCES.

Section 547 of title 11, United States Code, is amended—

(1) in subsection (b), by striking ''subsection (c)'' and inserting ''subsections (c) and (i)''; and

(2) by adding at the end the following:

''(i) If the trustee avoids under subsection (b) a security interest given between 90 days and 1 year before the date of the filing of the petition, by the debtor to an entity that is not an insider for the benefit of a creditor that is an insider, such security interest shall be considered to be avoided under this section only with respect to the creditor that is an insider.''.

SEC. 421. POSTPETITION TRANSACTIONS.

Section 549(c) of title 11, United States Code, is amended—

(1) by inserting ''an interest in'' after ''transfer of'';

(2) by striking ''such property'' and inserting ''such real property''; and

(3) by striking ''the interest'' and inserting ''such interest''.

SEC. 422. TECHNICAL AMENDMENT.

Section 552(b)(1) of title 11, United States Code, is amended by striking ''product'' each place it appears and inserting ''products''.

SEC. 423. SETOFF.

Section 553(b)(1) of title 11, United States Code, is amended by striking ''362(b)(14)'' and inserting ''362(b)(17)''.

SEC. 424. DISPOSITION OF PROPERTY OF THE ESTATE.

Section 726(b) of title 11, United States Code, is amended by striking ''1009,''.

SEC. 425. GENERAL PROVISIONS.

Section 901(a) of title 11, United States Code, is amended by inserting ''1123(d),'' after ''1123(b),''.

SEC. 426. APPOINTMENT OF ELECTED TRUSTEE.

Section 1104(b) of title 11, United States Code, is amended—

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

(2) by adding at the end the following new paragraph:

''(2)(A) If an eligible, disinterested trustee is elected at a meeting of creditors under paragraph (1), the United States trustee shall file a report certifying that election. Upon the filing of a report under the preceding sentence—

''(i) the trustee elected under paragraph (1) shall be considered to have been selected and appointed for purposes of this section; and

''(ii) the service of any trustee appointed under subsection (d) shall terminate.

''(B) In the case of any dispute arising out of an election under subparagraph (A), the court shall resolve the dispute.''.

SEC. 427. ABANDONMENT OF RAILROAD LINE.

Section 1170(e)(1) of title 11, United States Code, is amended by striking ''section 11347'' and inserting ''section 11326(a)''.

SEC. 428. CONTENTS OF PLAN.

Section 1172(c)(1) of title 11, United States Code, is amended by striking ''section 11347'' and inserting ''section 11326(a)''.

SEC. 429. DISCHARGE UNDER CHAPTER 12.

Subsections (a) and (c) of section 1228 of title 11, United States Code, are amended by striking ''1222(b)(10)'' each place it appears and inserting ''1222(b)(9)''.

SEC. 430. CONTENTS OF PLAN.

Section 1322 of title 11, United States Code, is amended—

(1) in subsection (b), by striking ''(c)'' and inserting ''(d)''; and

(2) in subsection (e), by striking ''default, shall'' and inserting ''default shall''.

SEC. 431. DISCHARGE UNDER CHAPTER 13.

Paragraphs (1) through (3) of section 1328(a) of title 11, United States Code, are amended to read as follows:

''(1) provided for under section 1322(b)(5) of this title;

''(2) of the kind specified in paragraph (5), (8), or (9) of section 523(a) of this title; or

''(3) for restitution, or a criminal fine, included in a sentence on the debtor's conviction of a crime.''.

SEC. 432. EXTENSIONS.

Section 302(d)(3) of the Bankruptcy, Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended—

(1) in subparagraph (A), in the matter following clause (ii), by striking ''October 1, 2002'' and inserting ''October 1, 2012''; and

(2) in subparagraph (F)—

(A) in clause (i)—

(i) in subclause (II), by striking ''October 1, 2002'' and inserting ''October 1, 2012''; and

(ii) in the matter following subclause (II), by striking ''October 1, 2003'' and inserting ''October 1, 2013''; and

(B) in clause (ii), in the matter following subclause (II), by striking ''October 1, 2003'' and inserting ''October 1, 2013''.

SEC. 433. BANKRUPTCY CASES AND PROCEEDINGS.

Section 1334(d) of title 28, United States Code, is amended—

(1) by striking ''made under this subsection'' and inserting ''made under subsection (c)''; and

(2) by striking ''This subsection'' and inserting ''Subsection (c) and this subsection''.

SEC. 434. KNOWING DISREGARD OF BANKRUPTCY LAW OR RULE.

Section 156(a) of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting ''(1) the term'' before '' 'bankruptcy''; and

(B) by striking the period at the end and inserting ''; and''; and

(2) in the second undesignated paragraph—

(A) by inserting ''(2) the term'' before '' 'document''; and

(B) by striking ''this title'' and inserting ''title 11''.

SEC. 435. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this title shall apply only with respect to cases commenced under title 11, United States Code, on or after the date of enactment of this Act.

Mr. DURBIN. Mr. President, I rise today with my distinguished colleague, Senator GRASSLEY, to introduce the Consumer Bankruptcy Reform Act of 1997. This sensible and bipartisan piece of legislation is designed to check many of the serious abuses in the Bankruptcy Code while maintaining a workable system.

Neither Senator GRASSLEY nor I can ignore the evidence that there are some people who are taking advantage of the Bankruptcy Code. Their numbers may not be great, but every abuse undermines confidence in the code. As with all systems, the Bankruptcy Code is subject to abuse. People can and will manipulate it. Senator GRASSLEY and I have introduced this legislation to attempt to curb many of these abuses. We have worked hard to craft a bill that is balanced—that corrects creditor and debtor abuses. It also attempts to catch abuses without being so harsh that it makes the system unworkable and without turning its back on the fundamental principles and good of the Bankruptcy Code.

Hovering in the background of all that we attempt to do in this legislation is the persistent news that personal bankruptcy filings are steadily increasing. Last year, personal bankruptcies broke the 1 million barrier. And this year will be worse. No one sitting in this room today can help but shudder at the prospect of 1.3 million personal bankruptcies this year.

The odds are that almost every American knows at least one person who has declared bankruptcy. Both Senator GRASSLEY and I vividly remember the farm crises of the 1980's when good, hard-working people came to the end of the line and were desperately trying to save their homes and their children's future. So they declared bankruptcy. We also remember the floods that swept through our States not too long ago that left a financial catastrophe as deep as the natural catastrophe. We must not lose sight of these people.

This jump in personal bankruptcies in good economic times is distressing, in large measure because it is a sign that many people—people we know—are in trouble.

As distasteful as bankruptcy is, the fact remains that we need the system. We cannot dismantle or radically alter it without doing serious damage to our economy, to creditors, and to millions of individuals. The cold hard fact is that the bankruptcy system does not just help individual debtors. It helps the creditors too. And by and large, it works.

To see how, imagine a world where people could not declare bankruptcy when they were in financial straits. In this world, each individual creditor would have to file suit in State court when the debtor defaulted. Only the first unsecured creditor to the courthouse door could get garnished wages to pay off the debt. The secured creditors could repossess all of the secured property. Meanwhile, all of the remaining creditors would get nothing, and the debtor would be left without an automobile, a home, or any assets and with next to no money after wage garnishment. There would be very few winners in that situation.

In stark contrast, the Federal bankruptcy system offers creditors and debtors a comprehensive system—paid for at public expense—which attempts to protect the creditors while also giving the debtor a chance to restart his

life. Without our system, each creditor would be clawing his way through the State court system, racking up legal costs, achieving virtually nothing, and turning millions of debtors into financial outcasts.

Some people credit our voluntary individual bankruptcy system to the English author Daniel Defoe, who in 1697 proposed something akin to our current chapter 7. Defoe made some very wise distinctions. He felt there was a difference between the ''honest debtor, who fails by visible necessity, losses, sickness, decay of trade, or the like'' and the ''knavish, designing, or idle, extravagant debtor, who fails because wither he has run out his estate in excess, or on purpose to cheat and abuse his creditors.''

He also had something to say about creditors, praising the ''moderate creditor, who * * * will hear reasonable and just arguments and proposals'' while warning against the ''rigorous severe creditor * * * without compassion, full of ill language, passion, and revenge.''

It took almost 150 years for the American Congress to implement Defoe's suggestion, although many individual States had acted before then. In 1841, having experienced the Panic of 1837, Daniel Webster introduced and passed a bill that allowed individuals to voluntarily file for bankruptcy and discharge their debts. It is not surprising that the central subject of debate 156 years ago was whether debtors who could actually pay their debts would nevertheless try to avoid them by declaring bankruptcy. Some things never change.

Even as we focus on the Bankruptcy Code and its possible abuses, however, we should be very careful that we do not obscure a far more important and dangerous feature of our consumer economy—the proliferation of risky credit. Merely making bankruptcy abuse harder to get away with is only a small part of the equation. Another part is preventing bankruptcies in the first place by encouraging more responsibility from banks as well as consumers.

Let me make this clear, I am happy to root out abuses in bankruptcy and to encourage people to repay as much as possible within the bankruptcy system. But I insist that I be met half way—that banks and consumers do all they can to encourage healthy lending patterns and responsible money management.

Mr. President, we may never be able to fully understand why bankruptcies have jumped so much. But a few things are clear. First, personal bankruptcy rates are tied to increased consumer debt burdens. The higher the level of credit card debt a person has, the greater the chance that the person will declare bankruptcy. And individual consumer debt is very high. In 1996, consumers charged more than $1 trillion on credit cards. According to the Consumer Federation of America, an estimated $374 to $396 billion in debt was being revolved or incurring interest obligations.

To most people, accumulating credit cards seems easy and problem free. The waters look awfully enticing when someone sends you a credit card. But there is a dangerous undertow. And as people move further from the shore, they risk getting caught by the undertow. Essentially people are placing themselves on the edge and not leaving enough of a margin for dealing with an unexpected fiscal calamity.

Yet rather than trying to blame anyone for bankruptcies, let us try to find a way to avert future bankruptcies. Both halves of the bankruptcy equation can and should act more responsibly. For creditors, that means providing consumers with enough information to assess the risks. For debtors, that means taking a hard look at what they can and can't afford.

People need to know about the deadly undertow associated with credit card solicitations. Right now people know more about what is in a box of cookies by looking at the nutritional label than they know about their credit cards. We need something like nutritional labels for credit cards.

I have previously proposed four important changes to the way people get and use credit.

First, companies should include in each bill to current cardholders information that details how long it will take that person paying only the minimum to pay off the credit card debt. In addition, the information should indicate how much of the overall payment would be interest.

Second, companies soliciting customers should provide the potential cardholders with an easy-to-understand worksheet to help them determine whether they really can afford more debt. Such a worksheet might include calculations of a person's expenses—current unsecured debt, home mortgage, rent, and other costs—and a simple formula to help people see whether they can or can't afford another card.

Third, companies should tell people the basis of the offer of more credit. When a person gets a preapproved credit card, he or she should know that the credit card company has not fully evaluated how more consumer debt could affect their overall financial health.

Finally, credit card companies should provide people who accept their card a free copy of their credit report.

These simple things might help quite a bit. Too many people are walking into consumer credit counseling bureaus, bankruptcy lawyers' offices, and bankruptcy court without any real understanding of their financial situation.

Mr. President, let me conclude on this note: I am proud to join Senator GRASSLEY in introducing this bill and in trying to prevent abuses of the Bankruptcy Code. But I believe that we must also work on something infinitely more constructive—we must try to help prevent financial catastrophes. What I propose is a small step in that direction which works on the principle that a well informed consumer is best able to protect himself.

By Mr. FAIRCLOTH (for himself and Mr. MOYNIHAN):

S. 1302. A bill to permit certain claims against foreign states to be heard in United States courts where the foreign state is a state sponsor of international terrorism or where no extradition treaty with the state existed at the time the claim arose and where no other adequate and available remedies exist; to the Committee on the Judiciary.

THE FOREIGN SOVEREIGN IMMUNITY TECHNICAL CORRECTIONS ACT OF 1997

Mr. FAIRCLOTH. Mr. President, I rise today to introduce a bill cosponsored by my esteemed colleague, Senator MOYNIHAN. This bill will close a loophole in the law and provide a safeguard for American citizens overseas. Last year, Congress amended the Foreign Sovereign Immunities Act to provide a remedy in U.S. courts to American citizens who are victims of acts of torture and terrorism perpetrated by terrorist nations.

The bill I am introducing today would broaden these antiterrorism provisions and send a forceful message to other foreign despots around the world that the United States will not tolerate the abuse of human rights of its citizens.

Last year's legislation took an important step to deal with the criminal act of terrorism and related human rights protections, however, because it targeted only those countries on the State Department's terrorist list, there is no available remedy for Americans under the Foreign Sovereign Immunities Act when governments of countries not on the torture list brutalize U.S. citizens.

Granted, only a few renegade countries not on the terrorist list systematically engage in torture. But our legislation will put these tyrants on notice that the United States will not let a legal technicality stand in the way of an American citizen bringing suit in the United States against his or her tormentor. These ruthless acts shall be judged by a court of law and, ultimately, by the opinions of mankind.

Mr. President, I urge Congress to close this loophole. To some it may seem like a small detail and the circumstances for such an incident may seem improbable, but I have first hand knowledge of two incidents of systematic torture, one of which involved a constituent from North Carolina living outside the protection of U.S. borders.

Mr. Scott Nelson was working in Saudi Arabia in 1984 as a systems engineer at King Faisal Specialist Hospital. In the course of his inspection duties, Mr. Nelson discovered a severe health hazard involving the valves that delivered oxygen during various medical procedures. He immediately reported the irregularities to his supervisors,

and recommended corrective action be taken.

To his surprise, Mr. Nelson found his warnings blatantly ignored. After taking this to the highest managerial level of the hospital, he was summoned to a hospital office, arrested, imprisoned, and ultimately interrogated. When he arrived in the interrogation room, Saudi officials shackled Mr. Nelson and ultimately tortured him, causing lifelong disabilities.

Mr Nelson was thrown into a rat infested cell where he was denied food, water, and sleep for days. At some point, Mr. Nelson was presented a document in Arabic and ordered to sign it. Under a Saudi threat to arrest Mr. Nelson's wife and child, he signed the document.

At no time during his 39-day detention was Scott Nelson informed of any charges or given the due process right of having his situation brought before a court or tribunal.

After 39 days of this most horrible experience, Mr. Nelson was released. He immediately returned to the United States in grave need of medical treatment and surgery to his left knee. Since that time, he has had five additional surgical procedures.

Additionally, Mr. Nelson has been diagnosed with diffuse nerve injury and posttraumatic stress disorder with symptoms rated as catastrophic. Eight physicians and psychologists who have examined Scott are unanimous in their judgment that the severe physical and psychological injuries from which he suffers are entirely consistent with his allegations of torture.

Mr. President, had this torture taken place in Iraq, Libya, North Korea, or any of the nations the State Department has designated as ''terrorist'' states, he would be entitled to seek damages in a United States court. Because Saudi Arabia, like so many other countries, is not officially considered a terrorist nation by our State Department, there is no remedy for American citizens to seek legal redress for injuries resulting from torture.

Mr. President, Scott Nelson has suffered enough. It is time for his government to provide him with a vehicle for relief. The legislation I present today is a simple and indisputable proposition: The United States shall not tolerate any country in the world to violate the basic rights of her citizens. I believe this is legislation that everyone in this body can support without hesitation.

Mr. MOYNIHAN. Mr. President, today I rise as an original sponsor of the Foreign Sovereign Immunity Technical Corrections Act of 1997. This legislation will extend a provision signed into law as part of the Anti-Terrorism Act (Pub. L. 104–132) allowing individuals who are victims of terrorism and other violations of international law to file suit for damages in United States court.

The Foreign Sovereign Immunities Act, enacted in 1976, recognizes that except in the most egregious cases, foreign states are immune from suit by a citizen of the United States. The bill Senator FAIRCLOTH and I are introducing today establishes the principle that terrorism, extrajudicial killing, and other gross abuses of human rights are not protected acts of state and are not entitled to sovereign immunity. While the Anti-Terrorism Act expanded the Foreign Sovereign Immunities Act to allow for suits against countries designated by the Department of State as a sponsor of terrorism, this bill would expand the list of states to include countries which do not have an extradition treaty with the United States, or which do not have an adequate available judicial remedy. This provision recognizes that while foreign states enjoy immunity from most legal action by individuals, there are certain fundamental principles of international law that cannot be violated with impunity.

Two examples of citizens who would gain legal standing by this legislation are James Smrkovski and Scott Nelson, Americans who were tortured by agents of their foreign state employer, a nation not on the list of terrorist states. They survived harrowing experiences only to be barred by the Foreign Sovereign Immunities Act from even attempting to obtain redress. When the United States Supreme Court said that the Foreign Sovereign Immunities Act did not permit Mr. Nelson any legal recourse, it made clear that a remedy must come from Congress.

And so, Mr. President, the Senator from North Carolina [Mr. FAIRCLOTH] and I are introducing this measure so that Americans who have been victims of terrible crimes perpetrated by foreign governments have legal recourse. I urge my colleagues to support and cosponsor the bill, and I hope it can be adopted without undue delay.

By Mr. LIEBERMAN (for himself, Mr. HAGEL, Mr. KERREY, and Mr. MURKOWSKI):

S. 1303. A bill to encourage the integration of the People's Republic of China into the world economy, ensure United States trade interests, and establish a strategic working relationship with the People's Republic of China as a responsible member of the world community; to the Committee on Finance.

THE UNITED STATES-CHINA RELATIONS ACT OF 1997

Mr. LIEBERMAN. Mr. President, I am honored to be joined by my distinguished colleagues Senators HAGEL, KERREY, and MURKOWSKI to introduce the United States-China Relations Act of 1997. I would also like to thank Congressman BEREUTER whose bill H.R. 1712, we have included in this act. The United States-China Relations Act of 1997 is legislation that will set us on a course toward more fully integrating China into the international community of nations while protecting our national economic and political interests and preserving our values.

We are at a critical juncture in our relations with the People's Republic of China. How we choose to manage China's emergence as a major global power will profoundly impact the shape of the international system in the 21st century, a situation not dissimilar to the late 19th and early 20th centuries when Germany, Japan, Russia, and the United States emerged to challenge Britain and France for world leadership.

British and French diplomacy failed although their task was not an easy one. Two terrible wars stained the history of this century. We must try to do better. We must work to establish an acceptable framework for peacefully integrating China into the evolving international economic, security, and political systems. And the core question is whether to continue on our current path of cooperation and integration or choose the path of containment and isolation.

During this session there has been much debate about which direction we should take in our relations with China. Most of the legislation that has been introduced regarding China has assumed the worst, centered on containment, and favored economic sanctions to remedy a host of Chinese transgressions. This policy of containment is ultimately premised on a view that China will be our next great enemy.

Some of my colleagues ask us to pass laws that use punishment as the primary tool in our bilateral relationship. These proposals overlook a number of realities: the ineffectiveness and unproductiveness of punitive legislation in changing China; the importance of maintaining and fostering trust and confidence in such an important bilateral relationship; the real potential for retaliation by China; and the potential upsides of a constructive relationship with China. Ultimately, those bills proposing containment of China will neither achieve their stated aims of changing China's behavior nor promote America's more general national and international interests.

The rest of the world will not join us in our effort to isolate China. That makes containment improbable. Our best policy option is to work to integrate China.

Before rushing to any conclusions about China's intentions, it is helpful to take a closer look at its development over the past 20 years. China has been engaged in a slow but steady effort to integrate itself into existing international systems. It has made efforts to be active in the United Nations, it has participated in a number of multilateral organizations, and has adapted some domestic institutions and policies to the demands of the international community.

I visited China last March with my friend and distinguished colleague, Senator CONNIE MACK of Florida, and was struck by the revolutionary changes occurring there. This time the revolution is being driven not by Mao's

little red book, but by the mass quest for cellular telephones and personal computers, and incidentally, all the personal freedom of communication that goes with them.

The central government in China is still not tolerant of opposition. Political and religious dissidents are in jail. On the other hand, average Chinese seem to have lost their fear of open and spirited conversations with Westerners. And Senator MACK found the Catholic churches during that Holy Week before Easter packed with worshipers.

The Chinese Government has undertaken a slow but steady deregulation of the economy since it allowed for free enterprise in the countryside in 1982. Deregulation and the marketization of the Chinese economy has led to unprecedented improvements in the living standards—and purchasing power—of ordinary Chinese. In the past 15 years, China's per capita GDP has more than tripled, from $889 to $2,923, and is forecast to be $4,190 in 2000. Not uncoincidentally, China's demand for United States exports has increased in similarly substantial leaps. United States goods and services exports destined for China have increased from $3.7 million in 1980 to $11.1 billion in 1995. China is now America's fifth largest trading partner. Similarly, United States foreign direct investment in China has increased significantly.

On the other hand, we have a large and growing trade deficit with China that is unacceptable. A prosperous and stable relationship will only continue for as long as we have fair access to China's markets.

On balance, China's economic and political reforms are becoming more, not less, consistent with American core values. The transformation of a socialist command economy into a controlled market system has allowed for the emergence of a new class of entrepreneurs and has promoted individuals' freedom to decide what to consume, where to live, what to do as a livelihood. The State sector of the economy has steadily declined, and increasing numbers of Chinese now work for employers that do not answer directly to the central government or the Communist Party. This means that the Communist Party's ability to control and monitor individual's social, political, and economic lives has diminished substantially. Explicit political reforms have been fewer, but today there are more local elections being held in China than at any other time in its modern history. The legal system has been reinvented over the past two decades, and has seen in recent years substantial, though still inadequate, improvements in criminal procedure and judicial review of administrative abuses. It can be said in summary that, the reforms of the past two decades have led to increased personal liberty, a strengthened legal system, and the beginnings of a civil society, although there is still a very long way to go.

In the clearest and most significant vote about China this year, a bipartisan majority in the House of Representatives chose to continue China's most-favored-nation trade status. But, after the vote, a flurry of bills were introduced expressing congressional opposition to China's economic, military, and human rights record. It is unfortunate that the Congress is sending mixed messages about this very important bilateral relationship.

To encourage China's current path of reform and development and to help ensure that China's inevitable transformation into a global economic and strategic power occurs in a way not adverse to United States interests or values, the United States must have an active China policy that aims at integration instead of isolation, and relies on carrots rather than sticks.

To ensure that our economic interests are met, we need to encourage China's increasing integration into international trade and investment regimes on commercially viable terms. This should help promote further liberalization of the Chinese economy while at the same time increasing American access to China's markets and thus decreasing the United States-China trade deficit. At the same time, the United States Government can more actively promote bilateral economic ties with those regions in China where human rights and labor conditions have shown improvement. Moreover, we should at every opportunity encourage China in the research and development of new energy efficiency and renewable energy technologies.

China's integration in international regimes also promotes American strategic interests. The bilateral strategic relationship can be strengthened, however, by developing closer exchanges with the Chinese military leadership. By opening ongoing lines of communication with the military, we will be in a better position to obtain accurate information about China's military modernization program. Through such proactive measures we will be in a better position to make Beijing more accountable for its strategic weapons exports.

It is time for Congress to end the ambivalence and build a consensus for a new China policy. Toward that end, along with my distinguished colleagues Senators HAGEL, KERREY, and MURKOWSKI, I am today introducing the United States-China Relations Act of 1997.

This legislation assumes that China will emerge as a superpower in the coming decades and become a nation with which the United States can and must have cooperative relationships—and that our relationships will be more cooperative if our economic, strategic, human rights, and environmental relations are viewed as distinct components of a larger, mutually-beneficial whole. It is based on a conclusion that China today is different from the China of the Cultural Revolution two decades ago and the China of Tiananmen Square a decade ago.

Here are some of the key provisions of the United States-China Relations Act of 1997:

Require an annual accounting of our economic relationship with China. Despite the growing significance of our trade relationship, barriers to U.S. exports should not be tolerated. The President would be required to submit an annual Economic Balance of Benefits Study to the Congress. The report would analyze the impact of existing bilateral trade agreements with China on United States employment, balance of trade, and United States international competitiveness.

Encourage China's integration into multilateral economic organizations. Just as it is important to have enforcement sticks, there should be carrots to encourage China's international economic integration. The bill requires the President to develop criteria for support of China's participation in the Organization for Economic Cooperation and Development and G–7 meetings, two groups that China is far from being accepted into, but in which it aspires to membership.

Give China permanent MFN upon accession to the WTO. First, I would like to credit Congressman BEREUTER for this innovative idea. This provision seeks to induce China to grant United States exporters adequate trade benefits and/or make significant progress toward WTO membership by authorizing a tariff increase on imports from China if those conditions are not met and by granting permanent MFN status once China becomes a WTO member.

Require greater information on energy and national security issues. The President should establish a bilateral United States-China committee on energy security and one for food security. These committees would help develop a bilateral policy for securing a stable supply of energy from politically volatile regions and securing food for China's large population. The bill also includes a sense-of-the-Senate resolution that the President and Congress continue to expand contact and exchanges between United States and Chinese national security personnel.

Establish a commission to promote the rule of law, respect for individual rights, religious tolerance, and civil society in China. This includes a bilateral commission on human rights with China; an exchange of legal professionals, government staff and religious leaders; and multilateral action on human and workers' rights. This last provision would include a prisoner information registry with information on all political prisoners, prisoners of conscience and prisoners of faith. The commission could recommend the imposition of specified sanctions to the President for human rights violations.

There is one provision more than any other that characterizes the tone and thrust of this act. It calls for the formation of a commission to prepare a profile of China province by province.

This profile then would serve as a basis for consideration of transactions with China by the Export-Import Bank and the Overseas Private Investment Corporation in those identified provinces.

This provision is particularly helpful in improving and strengthening our relations with China. By opening up OPIC programs to regions that have acceptable human rights, labor, and environmental standards, we are increasing investment into China at the same time we are advancing our values. It is a provision that encourages China to improve its human rights record without punitive economic sanctions. It uses a carrot instead of a stick.

America's economic and strategic interests, as well as our fundamental values, are best served by encouraging China on its path of economic and political reform.

China's geopolitical and economic rise are inevitable developments. How we react to China's transformation and manage the bilateral relationship, however, is within our discretion. United States-China relations are at a critical turning point, and the real challenge before us now is how to peacefully integrate China into the world community, and work with China to ensure world prosperity and stability in the 21st century.

Mr. President, I ask unanimous consent that the United States-China Relations Act of 1997 which I am proud to introduce with Senators HAGEL, KERREY, and MURKOWSKI be placed in the RECORD.

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

S. 1303

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''United States-China Relations Act of 1997''.

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

SEC. 2. DECLARATION OF POLICY.

It is the policy of the United States to—

(1) encourage the integration of the People's Republic of China into the global economy and community of nations;

(2) craft an economic, political, and strategic relationship with the People's Republic of China which builds mutual trust and encourages transparency;

(3) cooperate with the People's Republic of China on regional and global political and strategic issues, and to encourage the constructive interdependence of the People's Republic of China in the Asia Pacific region;

(4) recognize the sovereignty of the People's Republic of China, and oppose any unilateral change in the status quo of ''one China policy'', especially with respect to the Republic of China on Taiwan;

(5) continue a close relationship with the Special Administrative Region of Hong Kong; and

(6) enforce the Hong Kong Policy Act and any other provision that relates to the protection of civil liberties and the rule of law in Hong Kong.

SEC. 3. DEFINITIONS.

In this Act:

(1) TRADE REPRESENTATIVE.—The term ''Trade Representative'' means the United States Trade Representative.

(2) WORLD TRADE ORGANIZATION.—The term ''World Trade Organization'' means the organization established pursuant to the WTO Agreement.

(3) WTO AGREEMENT.—The term ''WTO Agreement'' means the Agreement Establishing The World Trade Organization entered into on April 15, 1994.

TITLE I—ECONOMIC NORMALIZATION

Subtitle A—General Provisions

SEC. 101. CONGRESSIONAL FINDINGS.

Congress makes the following findings:

(1) The People's Republic of China is the world's tenth largest trading nation and the United States' fifth largest trading partner. United States exports to the People's Republic of China have quadrupled over the past decade. At least 170,000 Americans owe their jobs to United States exports to the People's Republic of China. Jobs related to exported goods, on average, pay 13 to 16 percent more than nonexport related jobs.

(2) The United States is the People's Republic of China's largest export market. United States imports from the People's Republic of China were nearly $51,500,000,000 in 1996 (or nearly 25 percent of the exports of the People's Republic of China). By contrast, United States exports of goods to the People's Republic of China stood at only $12,000,000,000. While the large trade deficit with the People's Republic of China is the result of many factors, the People's Republic of China's multiple, overlapping barriers to trade and investments are a serious concern.

(3) In the coming decade, the rapid economic expansion of the People's Republic of China will exert a powerful influence on the global economy. In order to be constructive, the emergence of the People's Republic of China as an economic power should be compatible with the existing multilateral economic regime.

(4) Since the bilateral Memorandum of Understanding between the United States and the People's Republic of China signed in October 1992, the People's Republic of China has eliminated import restrictions on more than 1,000 tariff categories and opened its market to computers, heavy machinery, and pharmaceutical products.

(5) However, the People's Republic of China still maintains many barriers to the sale of foreign products and United States firms still do not have access comparable to that which the People's Republic of China enjoys in the United States. Sectors such as agriculture, telecommunications, insurance, distribution, audio-visual, advertising, and maintenance and repair need to be opened to international trade.

(6) Since 1995, the People's Republic of China has made significant progress in concluding agreements in the enforcement of intellectual property rights.

(7) Despite significant improvements in enforcement, serious problems still remain. Piracy of computer software remains at high levels. While market access for copyrighted products has improved, further improvement is required for legitimate products to be available to meet market demand.

SEC. 102. STATEMENTS OF POLICY.

It is the policy of the United States—

(1) to encourage a fair and equitable economic relationship that ensures equal market access between the United States and the People's Republic of China;

(2) to support the accession of the People's Republic of China to the World Trade Organization on commercially viable terms, which include commitments on opening up the agricultural market of the People's Republic of China, concessions on trading rights, lower tariffs, access to distribution networks, and elimination of import inhibiting standards;

(3) for importers of goods or services to affirm that such products or services were not manufactured or procured in a manner inconsistent with United States law or otherwise incompatible with the values of the United States; and

(4) for United States persons conducting business in the People's Republic of China to refrain from using oppressive instrumentalities of the state to oppose worker's efforts to organize.

SEC. 103. REPORTS TO CONGRESS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the Trade Representative shall, in consultation with the International Trade Commission and the Department of Commerce, prepare and submit to Congress a study showing the economic benefits that existing bilateral trade agreements between the United States and the People's Republic of China have on United States employment, balance of trade, and international competitiveness.

(b) MILITARY ACTIVITIES.—

(1) IN GENERAL.—The Secretary of State, in consultation with the Secretary of Defense, the Secretary of Commerce, and the head of any other appropriate intelligence agencies, shall, not later than 180 days after the date of enactment of this Act, and annually thereafter, prepare and submit to Congress a report on the commercial activities of the People's Liberation Army in the United States and the People's Republic of China. The report shall highlight the activities that provide off-budget revenue for military modernization.

(2) CONFIDENTIALITY.—The Secretary of Defense, the Secretary of Commerce, and the

head of any intelligence agency may separately submit information regarding the report to Congress in confidence if such Secretary or agency head considers confidentiality appropriate.

SEC. 104. BILATERAL ECONOMIC RELATIONS.

(a) INVESTMENT TREATY.—Not later than 180 days after the date of enactment of this Act, the Trade Representative shall assess the feasibility of entering into a bilateral investment treaty with the People's Republic of China and shall advise Congress of the results of the assessment.

(b) TAX TREATY.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Treasury shall assess the feasibility of entering into a bilateral tax treaty with the People's Republic of China and shall advise Congress of the results of the assessment.

(c) REPORT ON JOINT COMMISSIONS.—

(1) REVIEW.—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the President shall review the functions and objectives of each United States-China Joint Commission and shall submit for congressional review a program plan that identifies the objectives of each Commission and the resources required to achieve those objectives.

(2) JOINT COMMISSIONS.—For purposes of this subsection, the term ''United States-China Joint Commission'' means—

(A) the United States-China Joint Commission on Commerce and Trade,

(B) the United States-China Joint Economic Commission, and

(C) the United States-China Joint Commission on Science and Technology.

SEC. 105. MULTILATERAL ECONOMIC RELATIONS.

(a) STATEMENT OF PURPOSE.—It is the purpose of this section—

(1) to authorize the President of the United States to raise tariffs on imports from the People's Republic of China to tariff levels in effect on December 31, 1994, if the President determines, upon the expiration of the 1979 United States bilateral agreement with the People's Republic of China, that the People's Republic of China is either denying adequate trade benefits to the United States or not taking steps to become a full member of the World Trade Organization;

(2) to provide a significant incentive for the People's Republic of China to gain admission to the World Trade Organization by eliminating the annual review of China's trade status after it commits to a commercially acceptable protocol and is admitted to the World Trade Organization; and

(3) therefore to enhance the ability of the President of the United States to negotiate a commercially acceptable World Trade Organization protocol with the People's Republic of China.

(b) SNAP-BACK MECHANISM.—

(1) DETERMINATION WITH RESPECT TO THE PEOPLE'S REPUBLIC OF CHINA.—Upon the expiration of the 1979 United States bilateral agreement with the People's Republic of China, the President shall, after consulting with the appropriate congressional committees, determine whether or not the People's Republic of China is—

(A) according adequate trade benefits to the United States, including substantially equal competitive opportunities for the commerce of the United States; and

(B) taking adequate steps or making significant proposals to become a WTO member.

(2) SUBMISSION OF FINDINGS.—Not later than 180 days after the expiration of the 1979 United States bilateral agreement with the People's Republic of China, the President shall submit to the appropriate congressional committees a report setting forth his determinations under subparagraphs (A) and (B) of paragraph (1), with a rationale for each determination.

(3) TARIFF INCREASE.—

(A) IMPOSITION OF INCREASE.—If the President determines either—

(i) under subparagraph (A) of paragraph (1) that the People's Republic of China is not according adequate trade benefits to the United States, or

(ii) under subparagraph (B) of paragraph (1) that the People's Republic of China is not taking adequate steps or making significant proposals to become a WTO member,

then the President shall proclaim, within 180 days after the date of that determination, an increase in the rate of duty with respect to 1 or more products of that country to not more than the column 1 rate of duty under the Harmonized Tariff Schedule of the United States that applied to the article or articles on December 31, 1994.

(B) TERMINATION OF INCREASE.—The President shall terminate any increase in the rate of duty imposed under subparagraph (A) on the earlier of—

(i) the date on which the People's Republic of China becomes a WTO member; or

(ii) the date on which the President proclaims that—

(I) the People's Republic of China is according adequate trade benefits to the United States, including substantially equal competitive opportunities for the commerce of the United States; and

(II) the People's Republic of China is taking adequate steps or making significant proposals to become a WTO member.

(C) MODIFICATION OF TARIFF.—The President may modify any increase in the rate of duty imposed under subparagraph (A) if the President notifies the appropriate congressional committees of the modification and the reasons therefor, except that—

(i) the modification may not result in a rate of duty higher than that permitted under subparagraph (A); and

(ii) the authority of this subparagraph may not be used to terminate an increase in the rate of duty imposed under subparagraph (A).

(c) ACCESSION TO THE WORLD TRADE ORGANIZATION.—On the date on which the People's Republic of China becomes a WTO member, the provisions of title IV of the Trade Act of 1974 shall cease to apply to that country, and nondiscriminatory treatment shall apply to the products of that country.

(d) PARTICIPATION IN OECD.—The President shall—

(1) develop criteria for supporting the People's Republic of China's participation in the Organization for Economic Cooperation and Development and the G–7 meetings; and

(2) when appropriate, initiate discussions with other members of the Organization for Economic Cooperation and Development and the G–7 regarding the People's Republic of China's participation.

(e) DEFINITION.—As used in this section, the term ''WTO member'' has the meaning given that term in section 2(10) of the Uruguay Round Agreements Act (19 U.S.C. 3501(10)).

SEC. 106. USE OF FUNDS FOR COMMERCIAL AND CONSULAR PRESENCE.

Of the amounts authorized to be appropriated to the Department of State under the appropriations account entitled ''Administration of Foreign Affairs'' and of the amounts appropriated to the Department of Commerce for the United States and Foreign Commercial Service, $25,000,000 for fiscal year 1999, and $75,000,000 for fiscal year 2000, may be used to strengthen and expand the United States consular and commercial presence in the People's Republic of China to additional cities. The President, through the Director of the Office of Management and Budget, shall determine the allocation of funds to be used in any fiscal year to carry out the provisions of this section.

Subtitle B—United States-China Trade and Investment Commission

SEC. 111. UNITED STATES-CHINA TRADE AND INVESTMENT COMMISSION.

(a) IN GENERAL.—There is established a United States-China Trade and Investment Commission (referred to in this title as the ''Commission'').

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be bipartisan and composed of 17 members, including—

(A) 3 individuals appointed by the President from the executive branch of the government;

(B) 2 individuals appointed by the President pro tempore of the Senate, upon the recommendation of the majority and minority leaders of the Senate;

(C) 2 individuals appointed by the Speaker of the House of Representatives, in consultation with the minority leader of the House of Representatives;

(D) 7 individuals from private business appointed by the Secretary of Commerce; and

(E) 3 individuals from nonprofit organizations appointed by the Secretary of Commerce.

(2) APPOINTMENT.—The members of the Commission shall be appointed not later than 6 months after the date of enactment of this Act.

(c) CHAIRPERSON.—The Secretary of Commerce shall select a Chairperson from among the private business members.

(d) TERM OF OFFICE.—Members shall be appointed for the life of the Commission.

(e) VACANCIES.—Any vacancy occurring in the membership of the Commission shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Commission.

(f) COMPENSATION AND EXPENSES.—

(1) COMPENSATION.—Each member of the Commission who is not an employee of the Federal Government shall receive compensation at the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day the member is engaged in the performance of duties for the Commission, including attendance at meetings and conferences of the Commission, and travel to conduct the duties of the Commission.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

SEC. 112. STUDY AND REPORT.

(a) STUDY.—The Commission shall conduct a study of—

(1) business practices employed by United States and foreign persons conducting business in the People's Republic of China;

(2) human rights, labor, and environmental conditions in each province of the People's Republic of China based on criteria set forth in title IV of the Foreign Assistance Act of 1961 (22 U.S.C. 2191 et seq.) relating to insurance, financing, guarantees, and reinsurance by the Overseas Private Investment Corporation;

(3) other circumstances associated with the development of rule of law and civil society in the People's Republic of China;

(4) opportunities for bilateral cooperation for improving ecosystem management and

pollution control, and for integrating policies that have environmental impact in the People's Republic of China; and

(5) opportunities for developing voluntary environmental guidelines for industrial suppliers located in the People's Republic of China, including the implementation of ISO 14000 environmental management standards of the International Organization of Standards.

(b) REPORT.—Not later than 12 months after the date of enactment of this Act, and annually thereafter, the Commission shall prepare and submit to the President and the appropriate committees of Congress a written report containing—

(1) the findings and conclusions of the Commission resulting from the study conducted under subsection (a);

(2) the recommendations of the Commission, based on the findings and conclusions described in paragraph (1), for—

(A) improving opportunities for United States business in the People's Republic of China; and

(B) developing bilateral cooperation between the United States and the People's Republic of China relating to labor and environment; and

(3) a list of provinces in the People's Republic of China that meet the criteria of the Overseas Private Investment Corporation for insurance, financing, guarantees, and reinsurance described in subsection (a)(2).

(c) APPROPRIATE COMMITTEES.—For purposes of this section, the term ''appropriate committees'' means the Committees on Finance and Foreign Relations of the Senate and the Committees on Ways and Means and International Relations of the House of Representatives.

SEC. 113. POWERS OF THE COMMISSION.

(a) IN GENERAL.—The Commission is authorized to—

(1) hold such hearings and sit and act at such times;

(2) take such testimony;

(3) have such printing and binding done;

(4) enter into such contracts and other arrangements;

(5) make such expenditures; and

(6) take such other actions;

as the Commission may determine to be necessary to carry out the duties of the Commission.

(b) OBTAINING INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal agency such information as the Commission may require to carry out its duties.

(c) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of property in order to carry out the duties of the Commission.

(d) USE OF MAIL.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies.

SEC. 114. STAFF AND CONSULTANTS.

(a) STAFF.—

(1) APPOINTMENT AND COMPENSATION.—The Commission may appoint and determine the compensation of such staff as the Commission determines to be necessary to carry out the duties of the Commission.

(2) LIMITATIONS.—The rate of compensation for each staff member shall not exceed the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day the staff member is engaged in the performance of duties for the Commission. The Commission may otherwise appoint and determine the compensation of staff without regard to the provisions of title 5, United States Code, that govern appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, that relate to classification and General Schedule pay rates.

(b) EXPERTS AND CONSULTANTS.—The Chairperson of the Commission may obtain such temporary and intermittent services of experts and consultants and compensate the experts and consultants in accordance with section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(c) DETAIL OF FEDERAL EMPLOYEES.—On the request of the Chairperson of the Commission, the head of any Federal agency shall detail, without reimbursement, any of the personnel of the agency to the Commission to assist the Commission in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(d) TECHNICAL ASSISTANCE.—On the request of the Chairperson of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

SEC. 115. TERMINATION.

The Commission shall terminate on the date that is 2 years after the date of enactment of this Act.

SEC. 116. INVESTMENT TREATMENT FOR UNITED STATES BUSINESS.

(a) IN GENERAL.—The Export-Import Bank, the Overseas Private Investment Corporation, and other United States agencies shall take into consideration the study and report conducted under this subtitle in funding any transaction with the People's Republic of China.

(b) AMENDMENT TO EXPORT-IMPORT BANK ACT.—Section 2(b)(2)(D)(i) of the Export-Import Bank Act (12 U.S.C. 635(b)(2)(D)(i)) is amended by adding at the end the following new sentence: ''Subparagraph (A) shall not apply to guarantees, insurance, or extensions of credit by the Bank to a province of the People's Republic of China if the United States-China Trade and Investment Commission determines that the province meets the criteria for insurance, financing, guarantees, and reinsurance of the Overseas Private Investment Corporation set forth in title IV of the Foreign Assistance Act of 1961.''.

(c) OVERSEAS PRIVATE INVESTMENT CORPORATION.—Section 239 of the Foreign Assistance Act of 1961 (22 U.S.C 2199) is amended by adding at the end the following new subsection:

''(l) Notwithstanding any other provision of law, the Corporation may insure, reinsure, guarantee, or finance a project in the People's Republic of China if the United States-China Trade and Investment Commission determines that the province in which such project is located meets the criteria for insurance, financing, guarantees, and reinsurance set forth in this title.''.

TITLE II—STRATEGIC RELATIONS

SEC. 201. CONGRESSIONAL FINDINGS.

Congress makes the following findings:

(1) The United States and the People's Republic of China share mutual security interests in the Asia Pacific region (including the Korean peninsula) as well as other areas of the world such as the Middle East.

(2) While the People's Liberation Army poses no direct military threat to the United States now, its sales of weapons and weapons technology to sponsors of terrorism, such as Iran, endangers the regional stability and global interests of the United States.

(3) The People's Liberation Army is engaging in a military buildup and an aggressive military modernization program, for undisclosed purposes. In fact since 1992, military spending by the People's Republic of China has doubled.

(4) The People's Liberation Army is engaging in commercial activities both at home and abroad. The revenues from these commercial activities are used for military expenditures and obscure actual military expenditures by the People's Republic of China.

(5) In March 1996, the People's Republic of China demonstrated its capacity to blockade the international shipping lanes of the Taiwan Strait and the air space over Taiwan by the repeated launches of M–9 ballistic missiles in the South China Sea.

(6) In May 1996, Poly Technologies, a People's Liberation Army enterprise, and Norinco, a Chinese civilian defense company, attempted to smuggle 2,000 AK–47's into Oakland, California and offered to sell to Federal undercover agents 300,000 machine guns with silencers, 66mm mortars, hand grenades, and Red Parakeet surface-to-air missiles.

(7) The People's Liberation Army's buildup, modernization, and economic activities may pose a regional threat and a threat to broader United States interests in the future unless greater efforts are made to increase communication and transparency of process.

SEC. 202. STATEMENTS OF POLICY.

It is the policy of the United States—

(1) to encourage the political and military integration of the People's Republic of China into the Asia Pacific region and the larger global community of nations;

(2) to maintain a strong United States presence in the Asia Pacific region and to encourage cooperation between the United States, the People's Republic of China, and other nations;

(3) to encourage transparency in military funding in the People's Republic of China to the greatest extent possible; and

(4) to engage in confidence building measures between the United States and the People's Republic of China in order to reduce the risk of unintended conflict.

SEC. 203. REPORTS TO CONGRESS.

Not later than 180 days after the date of enactment of this Act, the Secretaries of State, Defense, and Commerce, along with the heads of other intelligence agencies, shall provide Congress with—

(1) a report analyzing the effectiveness of existing weapons proliferation export controls and sanctions relating to the People's Republic of China; and

(2) a report describing economic, political, and military espionage conducted by the People's Republic of China against the United States.

The Secretaries of State, Defense, and Commerce, and the head of any other intelligence agency may separately submit any information regarding the reports to Congress in confidence if such Secretary or agency head considers confidentiality appropriate.

SEC. 204. BILATERAL STRATEGIC RELATIONS.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the President should continue and expand contact and exchanges between national security personnel from the United States and of the People's Republic of China.

(b) ENERGY BILATERAL.—The President shall take steps to establish a bilateral committee with the People's Republic of China in order to begin a dialogue relating to the maintenance of stability in regions where there are energy resources of mutual interest to the United States and the People's Republic of China.

(c) FOOD BILATERAL.—The President shall take steps to establish a bilateral committee with the People's Republic of China in order to begin a dialogue relating to—

(1) common interests in the People's Republic of China's securing a stable and adequate supply of food, and

(2) the interests of the United States as a supplier of food to the People's Republic of China.

SEC. 205. MULTILATERAL STRATEGIC RELATIONS.

The President shall take steps to establish a multilateral risk reduction protocol with the People's Republic of China and other governments in East Asia. The protocol shall provide policies and procedures that include—

(1) establishing a line of direct communication between Washington and the People's Republic of China; and

(2) developing a protocol for naval encounters in international waters.

SEC. 206. ENFORCEMENT OF THE IRAN-IRAQ NON-PROLIFERATION ACT.

It is the sense of the Senate that the security and stability of the Near East is threatened by any augmentation of weapons inventories by Iran and Iraq and the President should vigilantly enforce the provisions of the Iran-Iraq Arms Non-Proliferation Act of 1992.

TITLE III—HUMAN RIGHTS

Subtitle A—General Provisions

SEC. 301. CONGRESSIONAL FINDINGS.

Congress makes the following findings:

(1) Congress concurs in the following conclusions of the Department of State regarding human rights in the People's Republic of China:

(A) The Government of the People's Republic of China has ''continued to commit widespread and well documented human rights abuses, in violation of internationally accepted norms, stemming from the authorities intolerance of dissent, fear of unrest, and the absence and inadequacy of laws protecting basic freedoms.''

(B) Nonapproved religious groups, including Protestant and Catholic groups, experienced intensified repression.

(C) Overall in 1996, the authorities stepped up efforts to cut off expressions of protest or criticism. No dissidents were known to be active at year's end.

(2) Despite public assurances by the People's Republic of China that it would abide by the principles of the Universal Declaration of Human Rights and despite the United Nations charter requirements that all members promote respect for and observe basic human rights, the Government of the People's Republic of China continues to place severe restrictions on religious expression and practice.

SEC. 302. STATEMENT OF POLICY.

It is the policy of the United States—

(1) to encourage the People's Republic of China to adhere to internationally accepted norms for the rule of law, human rights, and worker rights; and

(2) to develop a consistent multilateral response to the record of the People's Republic of China on human rights and worker rights.

SEC. 303. RADIO FREE ASIA; NATIONAL ENDOWMENT FOR DEMOCRACY.

(a) RADIO FREE ASIA.—The President shall direct the Director of the United States Information Agency and the Board of Broadcasting Governors to increase the broadcast hours of the Voice of America and Radio Free Asia to the People's Republic of China and to broadcast to the People's Republic of China in multiple Chinese dialects.

(b) NATIONAL ENDOWMENT FOR DEMOCRACY.—In addition to such sums as are otherwise authorized to be appropriated for fiscal year 1998 for grants to the National Endowment for Democracy, there is authorized to be appropriated for fiscal year 1998, $1,000,000 for grants to the National Endowment for Democracy which shall be available only for purposes of programs relating to the People's Republic of China.

SEC. 304. MULTILATERAL HUMAN RIGHTS.

In the absence of significant progress in improving human rights in the People's Republic of China, the President shall direct the United States Permanent Representative to the United Nations to develop and implement a strategy to ensure that there is a debate and discussion every year on the human rights record of the People's Republic of China before the United Nations Commission on Human Rights.

Subtitle B—Human Relations Commission

SEC. 311. HUMAN RELATIONS COMMISSION.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the President, in consultation with the majority and minority leaders of the Senate, the Speaker of the House of Representatives, and the minority leader of the House of Representatives, and appropriate representatives from the private sector, shall appoint a 12-member Human Relations Commission (referred to in this subtitle as the ''Commission'').

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of—

(A) 4 individuals appointed from the executive branch of the government;

(B) 4 individuals appointed from the legislative branch of the government; and

(C) 4 individuals from the private sector.

(c) CHAIRPERSON.—The Commission shall select a Chairperson from among its members.

(d) TERM OF OFFICE.—Members shall be appointed for the life of the Commission.

(e) VACANCIES.—Any vacancy occurring in the membership of the Commission shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Commission.

(f) COMPENSATION AND EXPENSES.—

(1) COMPENSATION.—Each member of the Commission who is not an employee of the Federal Government shall receive compensation at the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day the member is engaged in the performance of duties for the Commission, including attendance at meetings and conferences of the Commission, and travel to conduct the duties of the Commission.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

SEC. 312. FUNCTIONS OF THE COMMISSION.

(a) IN GENERAL.—The Commission shall perform the following functions:

(1) Assess the status of human rights and worker rights in the People's Republic of China based on the Universal Declaration of Human Rights and internationally recognized worker rights as defined in section 507(4) of the Trade Act of 1974.

(2) Work to develop a bilateral commission between the United States and the People's Republic of China on human rights and worker rights.

(3) Expand opportunities for the exchange between the United States and the People's Republic of China of judges, attorneys, religious leaders, customs officials, and members and staff of the executive and legislative branches of government.

(4) Encourage overseas development assistance programs that support the establishment of rule of law and civil society in the People's Republic of China.

(5) Identify opportunities for multilateral action on human rights and worker rights, and rejuvenate initiatives in the International Labor Organization relating to human rights and worker rights.

(b) ASSESSMENT OF HUMAN RIGHTS AND WORKER RIGHTS.—

(1) IN GENERAL.—In assessing the status of human rights and worker rights required by subsection (a), the Commission shall establish a Prisoner Information Registry that contains the information described in paragraph (2) with respect to people detained in the People's Republic of China as political prisoners, religious prisoners, and prisoners of conscience.

(2) REGISTRY INFORMATION.—The Prisoner Information Registry shall contain the following information with respect to the prisoners described in paragraph (1):

(A) The charges against each prisoner.

(B) A description of the judicial process or administrative action taken with respect to each prisoner.

(C) The length of incarceration, incidents of torture, and use of forced labor with respect to each prisoner.

(D) The physical condition and general health of each prisoner.

(E) Any other information relating to the general condition of each prisoner that the Commission considers to be relevant.

(3) REPORT AND RECOMMENDATIONS.—

(A) IN GENERAL.—Not later than 1 year after the first meeting of the Commission, and annually thereafter, the Commission shall report to Congress and the President the results of the assessment conducted under this subsection.

(B) RECOMMENDATION.—If the Commission determines that the People's Republic of China is not making progress in improving the status of human rights and worker rights within 2 years after the date of the first meeting of the Commission, the Commission shall recommend to the President that the President strengthen United States policies intended to improve the status of human rights and worker rights with respect to the People's Republic of China as the Commission determines to be appropriate.

SEC. 313. STAFF.

(a) DETAIL OF FEDERAL EMPLOYEES.—On the request of the Chairperson of the Commission, the head of any Federal agency shall detail, without reimbursement, any of the personnel of the agency to the Commission to assist the Commission in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(b) TECHNICAL ASSISTANCE.—On the request of the Chairperson of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

SEC. 314. TERMINATION.

The Commission shall terminate on the day that is 3 years after the date of the Commission's first meeting.

ADDITIONAL COSPONSORS

S. 219

At the request of Mr. GORTON, his name was added as a cosponsor of S. 219, a bill to amend the Trade Act of 1974 to establish procedures for identifying countries that deny market access for value-added agricultural products of the United States.