



**Legislative Bulletin.....March 19, 2003**

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**H.R. 417 — Cibola Wildlife Refuge Boundary Correction (Hunter)**

**Order of Business:** The bill is scheduled for consideration on Wednesday, March 19<sup>th</sup>, under a motion to suspend the rules and pass the bill.

**Summary:** H.R. 417 would adjust the boundary of the Cibola National Wildlife Refuge (in Imperial Valley, California) to exclude a 140-acre portion that was mistakenly included in the designation of the Refuge in 1964. The mistaken portion is commonly known as "Walter's Camp," which consists of a recreational vehicle park, a small marina, and a store. The Bureau of Land Management estimates that Walter's Camp receives 11,000 visitors per year.

If this legislation is not enacted, the U.S. Fish and Wildlife Service (which manages the Refuge) would be forced to evict the concessionaire, since it is not compatible with the mission of the refuge. Walter's Camp existed on that land prior to the Refuge designation.

H.R. 417 would also require the Secretary of Interior to resurvey the boundaries of the Cibola Refuge, post signs marking the boundaries, and publish a map of the refuge.

**Additional Background:** The House passed legislation identical to H.R. 417 (H.R. 3937) in the 107<sup>th</sup> Congress on June 24, 2002, by a vote of 375-0 (<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2002&rollnumber=249>). The Senate did not consider the bill.

**Committee Action:** The bill was referred to the Committee on Resources, but was not considered.

**Administration Position:** The Administration testified in favor of H.R. 3937 in the 107<sup>th</sup> Congress (<http://resourcescommittee.house.gov/107cong/fisheries/2002may16/ellis.htm>).

**Cost to Taxpayers:** Since the federal government has not been managing the erroneously included land, removing the land from the boundaries of the refuge would not affect federal expenditures or revenues. Minimal costs from existing appropriations would be associated with the resurvey of the refuge, posting of signs marking the boundaries, and publishing of a new map.

**Does the Bill Create New Federal Programs or Rules?:** The bill would adjust the boundary of a wildlife refuge to exclude a mistakenly-included 140-acre tract.

**Constitutional Authority:** A committee report citing constitutional authority is unavailable.

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**H.R. 699 — To direct the Secretary of the Interior to conduct a comprehensive study of the Rathdrum Prairie/Spokane Valley Aquifer, located in Idaho and Washington (Nethercutt)**

**Order of Business:** The bill is scheduled for consideration on Wednesday, March 19<sup>th</sup>, under a motion to suspend the rules and pass the bill.

**Summary:** H.R. 699 requires the Secretary of Interior to conduct a comprehensive study of the Rathdrum Prairie/Spokane Valley Aquifer, which is located in Idaho and Washington. The legislation states that the purpose of the study is to prepare a groundwater model to better coordinate the management of the aquifer and understand the factors that influence its quality and quantity of water. The study must be completed in three years and be conducted in consultation with the states of Washington and Idaho.

H.R. 699 authorizes \$3.5 million for the study.

**Additional Background:** About two-thirds of the Rathdrum Prairie/Spokane Valley Aquifer is located in Idaho, while the remainder is located in Washington. The two states share the aquifer, but do not manage it in the same manner, which has raised a variety of concerns in the communities that rely on the aquifer as the sole drinking water supply. The aquifer was officially designated as a “sole source” drinking water supply under the Safe Drinking Water Act in 1978.

Congress has already spent some funds on efforts to improve the management and protection of the aquifer, including an appropriation of \$1 million in 1988.

The House passed legislation identical to H.R. 699 (H.R. 4609) in the 107<sup>th</sup> Congress by a vote of 340-9 on July 8, 2002. The Senate did not consider the bill.

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2002&rollnumber=283>

**Committee Action:** H.R. 699 was referred to the Committee on Resources, but was not considered.

**Cost to Taxpayers:** The bill authorizes \$3.5 million over 3 years.

**Does the Bill Create New Federal Programs or Rules?:** The bill requires a study of the Rathdrum Prairie/Spokane Valley Aquifer by the Secretary of Interior.

**Constitutional Authority:** A committee report citing constitutional authority is unavailable.

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## **H.R. 519 — To authorize the Secretary of the Interior to conduct a study of the San Gabriel River Watershed (*Solis*)**

**Order of Business:** The bill is scheduled for consideration on Wednesday, March 19<sup>th</sup>, under a motion to suspend the rules and pass the bill.

**Summary:** H.R. 519 requires the Secretary of the Interior to conduct a resource study of the San Gabriel River and its northern tributaries and a portion of the San Gabriel Mountains. The study must be completed in three years and be carried out in consultation with the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy and state and local governments.

**Additional Background:** Legislation identical to H.R. 519 (H.R. 2354) was considered by the Resources Committee in the 107<sup>th</sup> Congress and passed the House of Representatives on September 24, 2002, by voice vote as part of S. 941. S. 941 also passed in the Senate, but a conference committee was unable to resolve differences between the House and Senate versions of the bill before the 107<sup>th</sup> Congress adjourned.

**Committee Action:** The bill was referred to the Committee on Resources, but was not considered.

**Cost to Taxpayers:** A Congressional Budget Office estimate of H.R. 2354 in the 107<sup>th</sup> Congress estimated a cost of \$500,000 over three years.

**Does the Bill Create New Federal Programs or Rules?:** The bill requires the Secretary of the Interior to conduct a study of the San Gabriel River Watershed.

**Constitutional Authority:** A committee report citing constitutional authority is unavailable.

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## **H.R. 1307—Armed Forces Tax Fairness Act (Thomas)**

**Order of Business:** The bill is scheduled to be considered on Wednesday, March 19<sup>th</sup>, under a motion to suspend the rules and pass the bill.

NOTE: The version of the bill that will come to the floor on the 19<sup>th</sup> is “clean.” That is, the non-armed-forces provisions that had been added to a similar bill two weeks ago (H.R. 878) are **not** in this version of the bill.

**Summary:** H.R. 1307 would amend the Internal Revenue Code to:

- 1) Alter how capital gains taxes are computed for homes of Armed Services and Foreign Service members and their spouses, if the members are serving on qualified extended duty at least 150 miles away from their principal residence. Currently, a homeowner is exempt from capital gains taxes (on up to \$250,000 of gain--\$500,000 for married couples) if he sells one home and he had lived in it for a total of two out of the last five years. The bill would essentially suspend the five-year timeline if the serviceman is away for a period in excess of 180 days. In other words, when the home is sold, the home still must have been the primary residence for a *total* of 2 years, but not necessarily in the past 5 consecutive years.
- 2) Provide complete tax-free treatment of death gratuity payments paid to survivors of members of the armed services, starting with deaths after September 10, 2001. (Currently, only half of the \$6,000 death gratuity payment is tax-free.)
- 3) Exempt from the personal income tax amounts received under the DOD Homeowners Assistance Program (regarding drops in home values due to military base realignments).
- 4) Expand combat-zone tax-filing rules to cover contingency operations.
- 5) Allow lineal descendants of veterans to be treated as members in veteran’s organizations for tax-exempt-status purposes.
- 6) Treat service academy appointments as scholarships for purposes of qualified tuition programs and Coverdell Education Savings Accounts.
- 7) Clarify that dependent care assistance provided under a military dependent care assistance program is tax-free.

- 8) Establish a new above-the-line tax deduction (beginning with tax-year 2003) of up to \$1,500 for travel expenses incurred by National Guard and Reserve members while more than 100 miles from home on official business.

The bill clarifies that Social Security would remain unaffected by any provision in this legislation.

**Additional Background:** This legislation incorporates similar provisions passed by the House as H.R. 5063 on July 9, 2002, by a vote of 413-0. The distance-from-home provision was 250 miles last year, while it is 150 miles this year.

**Committee Action:** The House Ways & Means Committee marked up H.R. 878 on February 27, 2003, and reported favorably an amended version. This amended version included other tax provisions that did not necessarily affect members of the armed forces. The resulting controversy forced House leadership to pull the amended bill from consideration on March 6<sup>th</sup>. H.R. 1307 is essentially H.R. 878 without the other tax provisions added at markup.

**Cost to Taxpayers:** The Joint Committee on Taxation estimated that H.R. 1307 would save taxpayers **\$85 million** in FY2003 and **\$368 million** over the FY2003-FY2007 period.

**Does the Bill Create New Federal Programs or Rules?:** The bill would make clarifications and changes to the Internal Revenue Code, as detailed above.

**Constitutional Authority:** The Ways & Means Committee, in House Report 108-23 for the similar bill H.R. 878, cites constitutional authority in Article I, Section 8, Clause 1 (which grants Congress the “power to lay and collect taxes, duties, imposts and excises...”) and in the 16<sup>th</sup> Amendment (which grants Congress the “power to lay and collect taxes on incomes, from whatever source derived...”).

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## **H.R. 1308—Tax Reform, Simplification, and Equity Act (Thomas)**

**Order of Business:** The bill is scheduled to be considered on Wednesday, March 19<sup>th</sup>, under a motion to suspend the rules and pass the bill.

**Summary:** According to the House Ways & Means Committee, all of the provisions in this bill have either passed the House previously or were adopted in Committee by voice vote. H.R. 1308 would amend the Internal Revenue Code to:

- Suspend the tax-exempt status of terrorist organizations (as identified by the Executive Branch) as long as such organizations are identified as such. The ability for taxpayers to deduct contributions to such organizations would also be suspended.

- Provide objective (rather than the current subjective) rules for determining whether an individual who renounces U.S. citizenship or long-term residency is subject to the individual expatriation alternate tax regime.
- Extend to members of the Foreign Service the special capital gains exclusion rule for home sales for members of the armed forces;
- Extend Victims Tax Relief Act benefits to astronauts who die in the line of duty;
- Give the Evergreen Forest Trust access to tax-exempt bonds to buy a 104,000-acre parcel of land adjacent to Seattle;
- Ease capital gains rules for timber sales by the owners of land on which timber is cut;
- Repeal the 10% excise tax on fishing tackle boxes (to reflect the fact that no such tax is imposed on non-tackle utility boxes that are virtually identical to tackle boxes);
- Ensure that farmers are not hit by the Alternative Minimum Tax (AMT) if they elect income averaging;
- Extend the reinvestment period for livestock due to drought, flood, or other weather-related conditions;
- Add Hepatitis A to the list of taxable vaccines
- Allow the “Orphan Drug Tax Credit” to be claimed as soon as an FDA application for such designation has been filed (rather than after the FDA grants approval);
- Allow cooperatives to pay dividends on capital stock without the dividends reducing net earnings eligible for certain dividend deduction benefits;
- Incorporate publicly-traded real estate debt into the “at-risk” rules for real estate financing; and
- Impose an excise tax on completed arrows imported into the U.S. and to reduce the excise tax on bows weighing less than 30 pounds. The excise tax on arrows is already applied to domestic manufacturers.

The bill clarifies that Social Security would remain unaffected by any provision in this legislation.

NOTE: This bill does **not** prohibit corporate inversions. However, the bill includes findings that explain that it is the excessively burdensome U.S. tax code (particularly when compared to the tax codes of other countries) that is forcing companies to invert. The bill also expresses the sense of Congress that passage of legislation fixing the underlying problems in our tax code (that cause companies to invert) is essential and should be completed as soon as possible.

ADDITIONAL NOTE: This bill does **not** allow non-resident aliens to bet on U.S. horse-racing, nor does it lower the diesel fuel tax rate on diesel-water emulsions.

**Additional Background:** The provisions in H.R. 1308 were added onto H.R. 878, the Armed Forces Tax Fairness Act, during a Ways & Means Committee mark-up last month. However, because these provisions do not directly affect the armed forces, the resulting controversy forced House Leadership to pull H.R. 878 from consideration on the House floor.

**Committee Action:** The House Ways & Means Committee marked up H.R. 878 (the Armed Forces Tax Fairness Act) on February 27, 2003, and reported favorably an amended version of the bill with the above provisions included.

**Cost to Taxpayers:** The Joint Committee on Taxation estimated that H.R. 1308 would increase revenue by **\$10 million** in FY2003 yet save taxpayers a net **\$49 million** over the FY2003-FY2007 period.

**Does the Bill Create New Federal Programs or Rules?:** The bill would make clarifications and changes to the Internal Revenue Code.

**Constitutional Authority:** Though no committee report citing constitutional authority is available, Article I, Section 8, Clause 1 of the Constitution grants Congress the “power to lay and collect taxes, duties, imposts and excises...” Additionally, the 16<sup>th</sup> Amendment grants Congress the “power to lay and collect taxes on incomes, from whatever source derived...”

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## **H.Res. 132 — Expressing the sense of the House of Representatives that the Ninth Circuit Court of Appeals ruling in *Newdow v. United States* Congress is inconsistent with the Supreme Court's interpretation (Ose)**

**Order of Business:** The resolution is scheduled for consideration on Wednesday, March 19<sup>th</sup>, under a motion to suspend the rules and pass the bill.

**Summary:** On June 26, 2002, the Ninth Circuit Court of Appeals ruled in *Newdow v. United States* Congress that the phrase “one Nation, under God” in the Pledge of Allegiance to the Flag violates the establishment clause of the First Amendment to the Constitution and is an endorsement of religion. On February 28, 2003, the Ninth Circuit amended its ruling in the case and stated that the policy of a California public school district to open each school day with voluntary recitation of the Pledge of Allegiance “coerces a religious act” and violates the establishment clause.

H.Res. 132 includes a variety of findings on the Pledge and the *Newdow* ruling, including:

- The Ninth Circuit’s ruling contradicts various Supreme Court cases that have stated that “voluntary recitation of the Pledge of Allegiance to the Flag is consistent with the first amendment”;
- The Pledge of Allegiance is “not a prayer or statement of religious faith, and its recitation is not a religious exercise”;
- The Ninth Circuit’s ruling affects every public school in 9 states, which educate over 9.6 million students, and could lead to restrictions on “other voluntary speech containing religious references in these classrooms”;

- Rather than promoting neutrality, the decision “requires public school districts to adopt a preferences against speech containing religious references”;
- The Ninth Circuit’s interpretation of the First Amendment is inconsistent with Supreme Court precedent, “any reasonable interpretation of the First Amendment,” and the Seventh Circuit Court of Appeals decision in *Sherman v. Community Consolidate School District*, which held that voluntary recitation of the Pledge does not violate the establishment clause; and
- The House and Senate both passed resolutions on June 26, 2002, supporting the Pledge, the House by a vote of 416-3 (H.Res. 459) and the Senate by a vote of 99-0 (S.Res. 292).

H.Res. 132 goes on to express the sense of the House that:

- The phrase “one Nation, under God” in the Pledge reflects “that religious faith was central to the Founding Fathers and thus to the founding of the Nation”;
- The recitation of the Pledge is “a patriotic act, not an act or statement of religious belief or faith”;
- The phrase “one Nation, under God” should remain in the Pledge and voluntary recitation of the Pledge “should be encouraged by the policies of Congress, the various States, municipalities, and public school officials”;
- The Attorney General should appeal the *Newdow v. United States Congress* ruling and the Supreme Court should review the ruling as well; and
- The President “should nominate and the Senate should confirm Federal circuit court judges who interpret the Constitution consistent with the Constitution’s text.”

**Committee Action:** The resolution was referred to the Committee on the Judiciary and reported by a vote of 22-2 on March 12, 2003.

**Cost to Taxpayers:** The resolution authorizes no expenditure.

**Does the Bill Create New Federal Programs or Rules?:** No.

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## **H.R. 975—Bankruptcy Abuse Prevention and Consumer Protection Act (Sensenbrenner)**

**Order of Business:** The bill is scheduled to be considered on Wednesday, March 19<sup>th</sup>, subject to a structured rule. Under the rule (H.Res. 147), several amendments were made in order (see summaries below).

**Background:** H.R. 975 is essentially identical to H.R. 333 of the 107<sup>th</sup> Congress. H.R. 333 passed the House on March 1, 2001, by a vote of 306-108 (<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2001&rollnumber=25>). On July 17, 2001, the Senate amended and passed



H.R. 333 by a vote of 82-16

([http://www.senate.gov/legislative/LIS/roll\\_call\\_lists/roll\\_call\\_vote\\_cfm.cfm?congress=107&session=1&vote=00236](http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=107&session=1&vote=00236)). Then the bill went to a conference committee for over a year. On November 14, 2002, the rule (H.Res. 606) to bring up the conference report **failed** by a vote of 172-243 (<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2002&rollnumber=478>) because the conference report included language making nondischargeable the debts incurred from peaceful pro-life protesting.

The next morning, on November 15, 2002, the House passed H.R. 333 without the peaceful protesting provision by a vote of 244-116 (<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2002&rollnumber=484>). The bill under consideration today is essentially identical to the final version of H.R. 333 (excluding the provision related to pro-life protestors) that passed the House.

**Highlights of H.R. 975 (as amended in committee last week):**

H.R. 975 is aimed at reducing frivolous bankruptcy claims (by requiring that higher-income filers who can repay some of their debts actually do so) while protecting debtors *vis a vis* creditors. The legislation establishes a needs-based system (or “means test”) that accounts for a debtor’s income, expenses, obligations, and any “special circumstances” when determining whether the debtor can repay at least a portion of the debt (rather than file under Chapter 7 to erase virtually all debts).

Further, the bill would ensure that creditors receive timely notice of important events in a bankruptcy case, while improving the accuracy of the information contained in debtors' schedules, statements of financial affairs, and other such documents. Abusive serial filings would be prohibited, the period between successive discharges would be lengthened (from six to eight years in most cases), and the use of exemptions would be limited.

The bill moves child support and alimony debts from the number seven priority (on the list of what debts must be paid and in what order) to the number *one* priority, thereby preventing some debtors from using bankruptcy to evade child support or alimony payments. The bill creates a uniform and expanded definition of domestic support obligations to include debts that accrue both before or after a bankruptcy case is filed.

The bill also includes provisions for law firms and other counseling agencies to educate consumers about debt, including required credit counseling for pre-bankruptcy filers and required explanations of non-bankruptcy options and the consequences of bankruptcy to debtors. Retirement accounts that are tax-exempt and worth \$1 million or less would not count towards a debtor’s estate, nor would Social Security benefits, withheld wages for contributions to employee benefit plans, or funds (up to \$5000 per beneficiary) placed in an education IRA or used to purchase a tuition credit within a year of filing bankruptcy.

To prevent “loading up” on debt prior to filing for bankruptcy, this bill lengthens the time-period before bankruptcy (from 60 days to 90 days) and lowers the dollar-amount of items purchased (from \$1000 to \$250) that would not be dischargeable through bankruptcy. No

cash advance of \$750 or higher made within 70 days before filing bankruptcy would be dischargeable, nor would any debt incurred for the purpose of paying a state or local tax.

In giving creditors new responsibilities, the legislation requires creditors to educate debtors about the results of paying only the minimum payment each month, prohibits creditors from closing the accounts of consumers who incur no finance charges, gives incentives for alternative dispute resolution, and encourages honest pre-bankruptcy settlements with debtors.

The bill also has provisions to protect dispositions of family farms (by making permanent the existing bankruptcy relief laws for family farmers) and to apply certain laws of individual bankruptcy to small business bankruptcy. H.R. 975 would establish a new form of bankruptcy relief for transnational insolvencies.

### **Some Key Issues:**

*Discharging Debts Incurred from Pro-Life Activities:* H.R. 975 does NOT contain the language in the conference report for H.R. 333 to which pro-life Members objected last year. That is, there is **no** language that would prevent the dischargeability of debts incurred as a result of peaceful, non-violent protesting (such as sidewalk counseling).

*The Homestead Exemption:* H.R. 975 would lengthen, from six months to two years before bankruptcy filing, the amount of time that a debtor would have to have lived in a particular state to claim the homestead exemption available in that state. The value of such exemption would be reduced to reflect the portions disposed of within seven years of bankruptcy with the intent to “hinder, delay, or defraud a creditor.” A homestead exemption may not exempt interest in a house above a total of \$125,000 acquired within 1215 days of declaring bankruptcy (unless the value is a result of a transfer of residence within a single state). Therefore, the bill discourages debtors from moving to a state with more favorable homestead laws in order to keep an expensive home after declaring bankruptcy.

H.R. 975 also would cap a debtor's homestead exemption at \$125,000 if the debtor was convicted in the preceding five years of a felony or owes a debt arising from any securities law violation, from any criminal act, or from willful or reckless misconduct that caused serious physical injury or death.

### **Other provisions of H.R. 975 that were *not* in the original version of H.R. 333 last Congress (passed on March 1, 2001) but that *were* included in the final version of H.R. 333 (passed November 15, 2002):**

- Preserves all normal claims and defenses for consumer credit transactions upon the sale of predatory loans (Sec. 204);
- Authorizes a General Accounting Office (GAO) study on the “reaffirmation agreement” process (i.e. the process of reaffirming a debt previously discharged in bankruptcy) (Sec. 205);
- Limits the release of personally identifiable information from consumer transactions in certain instances (Sec. 231);

- Authorizes the appointment of consumer privacy ombudsmen (Sec. 232);
- Clarifies what counts as “wages and benefits” once a bankruptcy case has been filed (Sec. 329);
- Allows for a delay of debt discharges while the outcome of certain proceedings are pending (Sec. 330);
- Requires that administrators of employee benefit plans fulfill their duties as administrators even when they are debtors in bankruptcy cases; (Sec. 446);
- Clarifies that the United States trustee appoints committees of retired employees (in instances of small business bankruptcies) (Sec. 447);
- Expands the qualifications to be a “family farmer” for the purposes of family farmer bankruptcy protection (Sec. 1004);
- Expands the requirement that family farmers receive 50% of their income from farming operations in the taxable year immediately prior to bankruptcy filing to each of the second and third taxable years preceding the bankruptcy year (Sec. 1005);
- Prohibits the retroactive assessment of disposable income for family farmers (Sec. 1006);
- Extends to family fishermen the bankruptcy protections for family farmers (Sec. 1007); and
- Makes nondischargeable any debts incurred to pay fines or penalties imposed under federal election law (Sec. 1235).

**Summaries of Amendments Made in Order under the Rule (H.Res. 147):**

The summary language in plain text below was provided by the Rules Committee. Any additions or clarifications by RSC staff are indicated in *bold italics*. Debate time is indicated parenthetically at the end of each amendment summary.

Toomey (R-PA)/ Sherman (D-CA): Redrafts *the first five sections of H.R. 975’s Title IX (the financial contract provisions)* so that the same provisions in Title IX are applicable to both the bank and credit union federal regulators that must manage these matters should a problem occur. (10 minutes)

Gutierrez (D-IL): Provides that upon enactment, Section 1234 (*regarding clarifications to the rules for commencing an involuntary bankruptcy petition against a person*) applies to involuntary cases both prospectively and now pending in the bankruptcy courts. (10 minutes)

Cannon (R-UT)/ Delahunt (D-MA): (1) Increases the monetary cap on wage and employee benefit claims entitled to priority under the Bankruptcy Code from **\$4,000** to \$10,000 and lengthens the reach-back period for wage claims from 90 days to 180 days; (2) increases the reach-back period during which fraudulent transfers can be rescinded from one to two years and provides that certain compensation payments (e.g. bonuses) to a corporation’s insiders during this two-year reach-back period can be rescinded, under certain circumstances; and (3) requires the court to reinstate retiree benefits that a corporate debtor modified within the 180-day period preceding the bankruptcy filing, unless the balance of the equities justifies the modification. (10 minutes)

Sherman (D-CA): Requires corporations filing for bankruptcy to file their case in the district court of the district in which the corporation’s principal place of business in the United States

is located. For cases in which the debtor is an affiliate, the bankruptcy case may be filed in the district in which the principal place of business of the affiliate with the greatest assets in the United States is located. ***Provides for jurisdictional transfers, if necessary and requested, to meet these geographic requirements. (10 minutes)***

***Conyers (D-MI) Amendment in the Nature of a Substitute:*** Modifies the “means test” and requires the court, in considering a motion to dismiss or convert a Ch. 7 bankruptcy case, to take into account the debtor’s actual reasonable and necessary expenses and income, and determine whether the debtor can repay 30% of unsecured debt. Protects child and spousal support obligations by limiting the ability of creditors to deprive debtors of the right to a fresh start and emerge from bankruptcy able to pay their obligations to their children. Modifies changes to Ch. 13 of the bankruptcy code to make it more workable and increase the likelihood that debtors who choose Ch. 13 will succeed. Makes restrictions on automobile cram-down more workable (1-year instead of 2-year look-back). Prevents debtors from using bankruptcy court to evade lawful debts for certain criminal civil rights violations. Provides enhanced protection for employee benefits, ensures fairness for employees, and provides a remedy for corporate wrongdoing in Ch. 11. Provides bankruptcy courts with flexibility to protect small businesses from premature or unnecessary liquidation if they are able to reorganize successfully. Closes loophole in current law by preventing debtors from taking cases to courts far away from where the business is actually conducted. Protects the right of debtors to uphold contracts in bankruptcy. Provides for additional bankruptcy judges according to the most recent needs assessment by the Judicial Conference. Strikes pro-IRS amendments that would elevate the rights of taxing authorities over other creditors and debtors. Provides for enhanced disclosure on credit card statements to help consumers understand the cost to repay balances using their actual debts. Protects against corruption in bankruptcy proceedings by deleting amendments that would allow for abusive motions, allow for conflicts of interest on the part of investment bankers, and allow bankruptcy professionals to evade accountability in court for their wrongdoing. *(40 minutes)*

**Additional Background:** To read brief summaries explaining the differences among the chapters in the bankruptcy code (Ch. 7, 13, 11, 12, and 9), visit this website:  
<http://www.thebankruptcysite.com/chapters.htm>

**Committee Action:** On March 12, 2003, the House Judiciary Committee marked up H.R. 975 and reported favorably an amended version (reflected in the summary above) by a vote of 18-11.

**Administration Position:** Though no Statement of Administration policy (SAP) is available for H.R. 975, the following is the SAP made for H.R. 333 during the 107<sup>th</sup> Congress:

The Administration supports the overall package of bankruptcy reforms reflected in H.R. 333. These common sense reforms will curb many of the abuses of the current bankruptcy protections. In addition, the Administration supports the bipartisan compromise language that was adopted by the last Congress regarding the homestead exemption.

**Cost to Taxpayers:** Though no cost estimate is available for H.R. 975, for H.R. 333 in the 107<sup>th</sup> Congress, CBO estimated that the legislation would result in:

- A net \$19 million decrease in discretionary spending in the first year and a net \$18 million decrease over five years;
- A net \$2 million increase in mandatory spending in the first year and a net \$18 million increase over five years; and
- A net \$45 million reduction in revenue in the first year and a net \$260 million reduction over five years.

**Does the Bill Create New Federal Programs or Rules?:** Yes. Below are some highlights:

- For debtors:
  - Debtors would have to undergo credit counseling within 180 days of filing for bankruptcy and may not obtain any discharge of debts until completing a personal financial management instructional course.
  - Bankruptcy filers would have to file the three most recent years of tax returns or face dismissal of their cases.
- For creditors:
  - Creditors would be required to send information to consumers about the ramifications of paying only the minimum balance each month, introductory rates, payment deadlines, late-payment penalties, and other information.
  - Creditors would be prohibited from terminating a credit account prior to its pre-determined expiration date just because the consumer always pays off the full balance each month (and thus never incurs a finance charge).
- For other entities:
  - The Director of the Administrative Office of the United States Courts would collect statistics on individual bankruptcy, standardize and make such statistics available to the public, and submit a report on this data once a year beginning no later than October 31, 2002.
  - The Board of Governors of the Federal Reserve would be directed to study consumer protections for unauthorized use of dual-purpose debit cards and other consumer credit issues.
  - Debt-relief counseling agencies (popularly known as “bankruptcy mills”) would be required to counsel consumers on the significance of bankruptcy and what alternatives to bankruptcy consumers may have.
  - The U.S. Attorney General would be directed to randomly audit no less than one out of every 250 individual bankruptcy filings.
  - 23 bankruptcy judgeships would be temporarily created for certain court districts.
  - District courts of appeals would have to expedite bankruptcy appeals to meet 30-day deadlines for certain court actions.

**Constitutional Authority:** Though no committee report citing constitutional authority is available, Article I, Section 8, Clause 4 gives Congress the power “to establish ... uniform Laws on the subject of Bankruptcies throughout the United States.”

**Outside Organizations:** The U.S. Chamber of Commerce is urging support for this legislation and “will strongly consider” including the vote on this bill in its annual “How They Voted” guide.

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